



# NEVADA GAMING

# LAWYER

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\*Co-editors of the Nevada Gaming Lawyer

**SEPTEMBER 2023**

Official Legal Publication of the  
State Bar of Nevada

**GAMING LAW SECTION**

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Interview with Kirk Hendrick, Chair of the  
Nevada Gaming Control Board

17 Years of the *Nevada Gaming Lawyer*,  
17 Years of Gratitude

Governor's Executive Order 2023-03,  
Nevada Gaming Commission Regulations  
Recommended for Improvement and Removal

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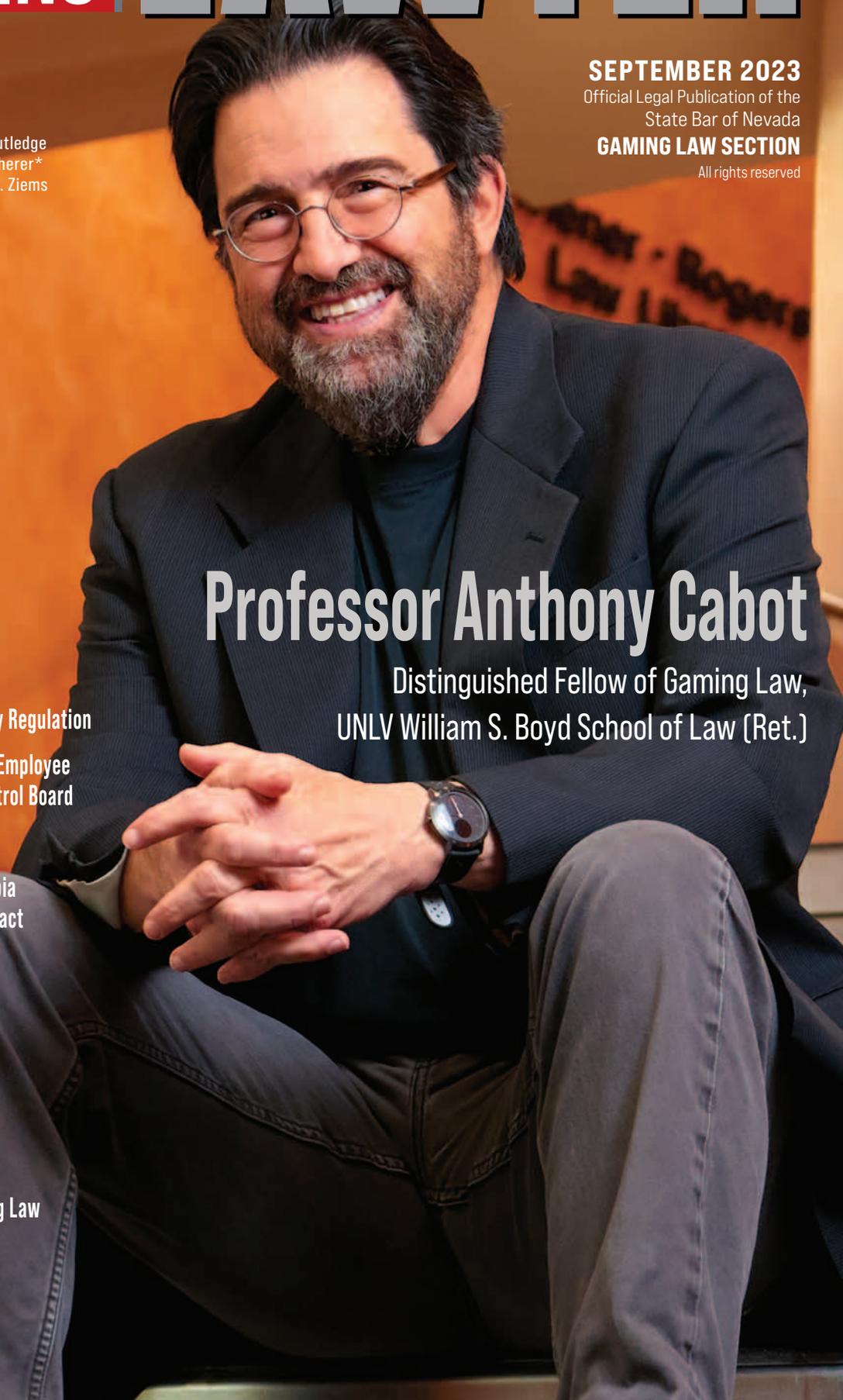
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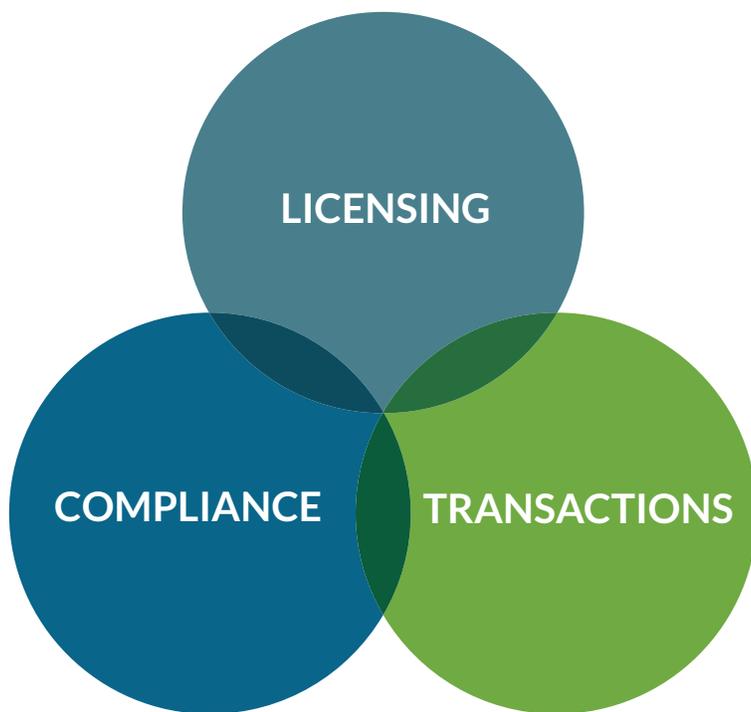
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## Professor Anthony Cabot

Distinguished Fellow of Gaming Law,  
UNLV William S. Boyd School of Law (Ret.)



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- Operators
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- Manufacturers
- Service Providers



# NEVADA GAMING LAWYER

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**On the cover**  
**Professor Anthony Cabot**  
Distinguished Fellow of Gaming Law,  
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### State Bar of Nevada Gaming Law Section Purpose

First, to enhance the role and skills of lawyers engaged in the practice of gaming law through study, collection, development and dissemination of material on subjects of interest to the gaming practitioner. Secondly, members assist, when called upon by the Board of Governors of the State Bar of Nevada, in formulating, administering, and implementing programs, forums, and other activities for the education of members of the State Bar of Nevada in matters pertaining to gaming laws and regulation. Thirdly, members act upon all matters germane to its purposes as so described or referred to it by the Board of Governors.

For more information on the Gaming Law Section, please visit:  
<https://nvbar.org/content/gaming-law-section/>

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# FOREWORD



By Professor Anthony Cabot, Distinguished Fellow of Gaming Law,  
UNLV William S. Boyd School of Law (Ret.)

Welcome to the 2023 edition of the *Nevada Gaming Lawyer* magazine. As the outgoing Distinguished Fellow of Gaming Law at the UNLV William S. Boyd School of Law, I am honored to use this *Foreword* to highlight critical connections between the gaming bar and the law school.

As a young lawyer, I felt many colleagues did not respect gaming law as a legal discipline. The academic community, with some exceptions, also dismissed it as unworthy of serious study. Yet, gaming law is a complex field involving various disciplines, including regulatory law, public policy, psychology, sociology, political science, mathematics, economics, and others.



Gaming also is a significant industry rivaling or exceeding sports, movies, and music. We should not dismiss the importance of gaming regulation to society. Effective gaming regulation allows governments to achieve public goals like raising taxes, increasing jobs, promoting tourism, or minimizing problem gambling.

Founded in the global gaming center, the Boyd School of Law was the natural venue for the evolution of gaming law from a legal topic to a separate discipline. The gaming law program is as old as the law school. My involvement began in 2002 after Bob Faiss and I took over the gaming law class from Shannon Bybee. It was the start of a 21-year relationship.

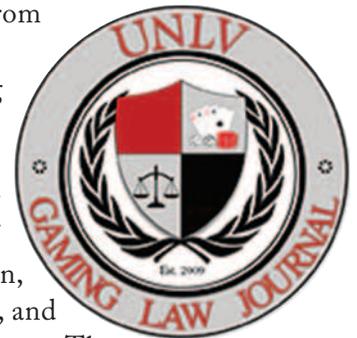
For many years, we co-taught an introduction to gaming law. But, the interest and proliferation of gaming brought new issues and the demand for gaming law education. So, from a single class, we expanded to ten courses covering many gaming law-related topics, including sports wagering, tribal gaming, gaming technology, resort law, and federal gaming law. The law school's advisory committee has helped to develop the curriculum.

We have been fortunate to attract many outstanding adjuncts to teach these classes. They include Mark Lerner, Greg Gemignani, Jennifer Roberts, Terry Johnson, Katie Lever, Uri Clinton, Becky Harris, and Daron Dorsey. We also welcomed visiting professors Keith Miller, from Drake Law School, and Kathryn Rand and Steven Light from the University of North Dakota.

Under then Dean Dan Hamilton's leadership, the law school responded to the demand for gaming law education from practicing attorneys looking to enter

the field. We created the only program offering an LL.M. in Gaming Law and Regulation. The school has welcomed about a hundred lawyers from diverse backgrounds and places. We have had post-graduate students from Bangladesh, Brazil, Colombia, Dominican Republic, Greece, France, India, Ireland, Korea, Macau, Mexico, Puerto Rico, Taiwan, The Bahamas, Uganda, and Ukraine. Two of the inaugural class of 2016 became Chairs of the Nevada Gaming Control Board. Others have taken leadership positions in the gaming community.

Besides education for law students, the gaming law program at Boyd School of Law thrives on being a thought leader for best gaming law and regulations practices. We attempt to do this in several ways. I am proud of the UNLV Gaming Law ("Journal"). It is published by the students of the Boyd School of Law and funded by the International Masters of Gaming Law, the State Bar's Gaming Law Section, and individual contributions from practicing attorneys. The Journal is the only gaming law dedicated Journal at an ABA-accredited law school. It analyzes the law and policy implications of gaming case law, legislation, administrative regulations, and important gaming legal events. The student staff regularly produce significant legal scholarship on gambling and commercial gaming.



Until the pandemic, the law school hosted distinguished speakers on gaming law topics at least four times each school year. These events attracted attendees from the government, academics, law, the press, and the public. The Gaming Law Society, an organization of students interested in gaming law as a career, organized three events. The fourth is the annual Bob Faiss lecture. These free events allowed bar members to get continuing legal education credit and should resume later this year.

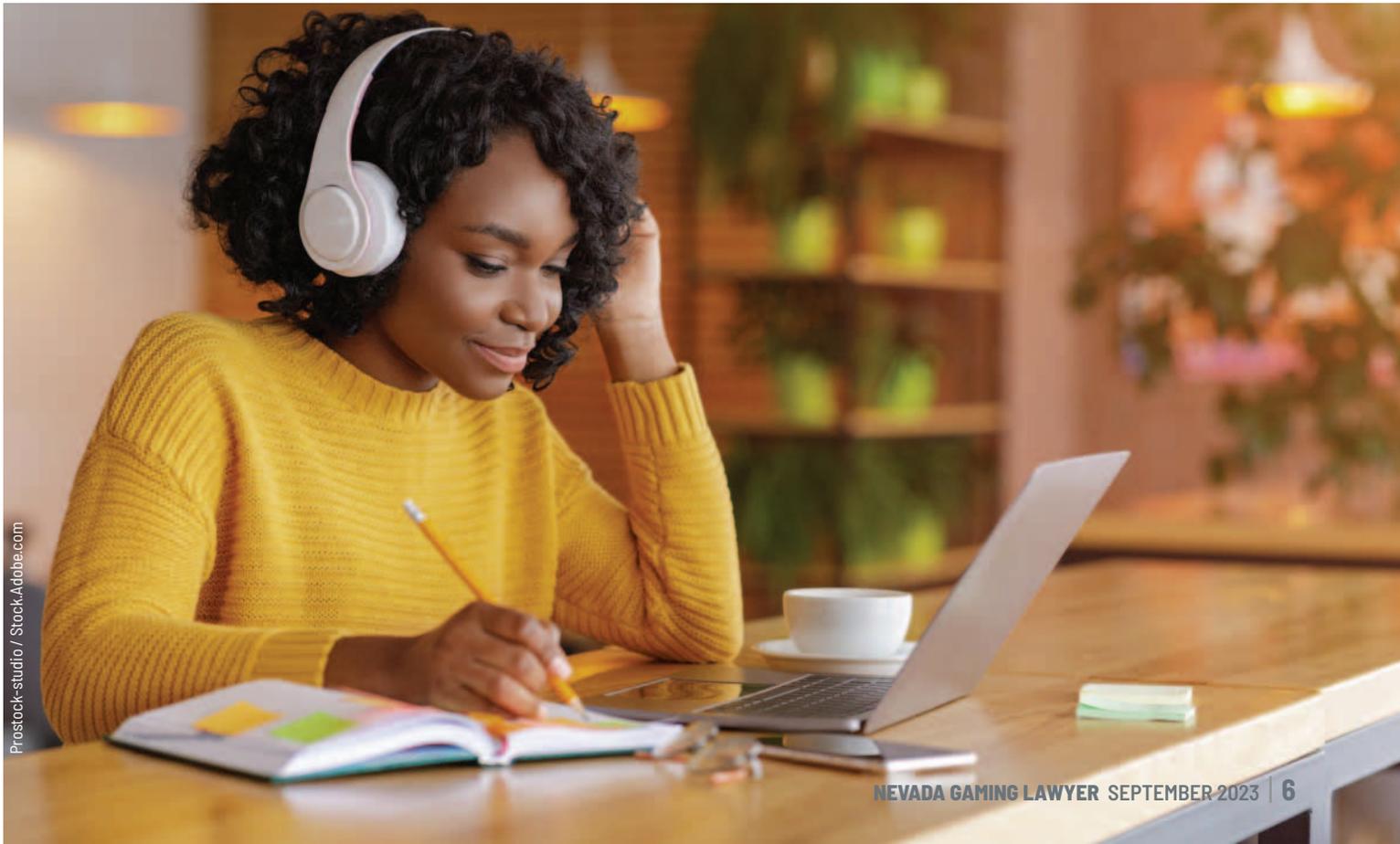
We also occasionally host conferences, but only when a topic arises that is genuinely significant to the future of gaming law and regulation. The most recent conference covered privacy and the impact of artificial intelligence. These conferences are academic, but also have an immediate and practical side.

The law school also was the genesis of four books on gaming regulation. We created the UNLV Gaming Press with Professor David Schwartz from the UNLV Gaming Research Center, which has published three books on gaming law. These included *Regulating Land Based Gaming*, which I co-edited with Professors Ngai Pindell and Brian Wall, *Regulating Internet Gaming*, and *Sports Wagering in America* with Professor Keith Miller. Law schools also lacked a casebook focused on the gaming industry, so Drake Law School professor Keith Miller and I authored *The Law of Gambling and Regulated Gaming: Cases and Materials* by Carolina Academic Press.



The program has thrived because of the support of the industry and regulators. Three groups that have provided significant support are the State Bar's Gaming Law Section, under the leadership of Jeff Rodefer; the San Manuel Band of Mission Indians; and Entain. The Gaming Law Section has been generous by funding an annual scholarship, the Gaming Law Journal, and supporting the gaming law classes. The San Manuel Band of Mission Indians made a generous gift to create a Tribal Governance and Gaming Program. Their gift supports a professor-in-residence, a visiting professor, and a program administrator who will create opportunities for interdisciplinary dialogue and research on governance, regulation, and economic development issues. The Boyd School of Law has developed online courses on tribal governance and gaming regulation, expanded its Tribal Law practicum, and has conducted an annual symposium on emerging topics and issues of interest to Native American gaming. Professor Addie Rolnick oversees the program with the support of Distinguished Fellows John Tahsuda III and Jennifer Carleton. The San Manuel Band of Mission Indians also provided funds for a scholarship for an LL.M. student in gaming, with a preference given to tribal citizens and indigenous students.

We have also expanded the program in partnership with Entain under the guidance of Martin Lycka. We launched a new online training program in gaming





law and regulation for the industry, welcoming lawyers and laypersons. This online training program is for operators, regulators, and others in the gaming industry. Well-known gaming lawyers and industry veterans, including Alan Feldman, Dayvid Figler, Quinton Singleton, and Bill Buffalo, are instructors. They created and teach these mostly asynchronous programs. The program prepares professionals for the gaming industry's sophisticated regulatory and operating challenges.

The law school also has collaborated with other university departments. UNLV hosts the International Center for Gaming Regulation and is the world's leading international gaming regulation research and education entity. It specializes in research, executive education, advisory practices, and developing leadership councils that routinely assess and recommend improving international gaming regulations.

In 2016, Richard Schuetz raised the idea of having a center at the UNLV dedicated to gaming regulation. Mark Lipparelli, Bo Bernhard, and I ran with the idea. The new center would become a joint venture between the law school and the International Gaming Institute. The center launched with initial funding from Gaming Laboratories International and Wynn Resorts, and additional assistance from the Nevada Legislature.

As you can see, the gaming law program at the Boyd School of Law is vibrant and, under Dean Leah Grinvald continues expanding by looking for opportunities to serve better the gaming bar, the community, and the gaming industry.

It has been a fulfilling 20 years, and I am grateful to my friends and colleagues who have contributed their time and money to the program. ■

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Anthony N. Cabot retired in May 2023 as the Distinguished Fellow of Gaming Law at the UNLV William S. Boyd School of Law, where he taught gaming law. Before joining the Boyd School of Law as a Distinguished Fellow in March 2018, Professor Cabot practiced gaming law for 37 years and was a former chair of the gaming law practice and executive committee member at Lewis Roca Rothgerber Christie LLP.

Professor Cabot is a prolific author on gaming law. Besides numerous journal articles, he has authored or edited thirteen books on gaming-related topics including *Sports Wagering in America: Policies, Economics, and Regulation* (2018), *Regulating Land-based Casinos* (2d. ed. 2018), *The Law of Gambling and Regulated Gaming: Cases and Materials* (2d. ed. 2015), *Regulating Internet Gaming: Challenges and Opportunities* (2013), and *Practical Casino Math* (2d ed. 2005)

Professor Cabot is a founder and past president of the International Masters of Gaming Law, past president of the Nevada Gaming Attorneys Association, and past general counsel to the International Association of Gaming Attorneys.

# INTERVIEW

WITH

## KIRK HENDRICK,

Chair of the Nevada Gaming Control Board

By Maren Parry



Stepping into the role of Chair and Executive Director of the Nevada Gaming Control Board (“Board”), Kirk D. Hendrick brings a dynamic and diverse career spanning three decades. Appointed by Governor Joe Lombardo in January 2023, Chair Hendrick succeeded interim Chair Brittnie T. Watkins, who took over after Chair J. Brin Gibson’s resignation in November 2022.

Chair Hendrick embarked on his legal career in 1991 as a litigator, before joining the Office of the Attorney General as a prosecutor in the newly established Worker’s Compensation Fraud Unit. Transitioning to the Gaming Division in 1996, he rose to the ranks of Senior Deputy and Chief Deputy, providing legal representation to the Board and the Nevada Gaming Commission (“Commission”). Notably, he also served as chief legal counsel for the Nevada Athletic Commission. In 2001, he shifted his focus to gaming and sports law in private practice before joining the renowned Ultimate Fighting Championship (“UFC”) as general counsel. He then advanced to the positions of chief operating officer and later executive vice president and chief legal officer for Zuffa, the parent organization of the UFC. Following his tenure with the UFC, Chair Hendrick redirected his expertise to the establishment of Hendrick Sports & Entertainment, his own consulting firm.



Chair Hendrick earned his Bachelor of Arts in communication studies from the University of Nevada, Las Vegas, and earned a Juris Doctor from California Western School of Law.



You previously told the Nevada Independent that you were coming out of “quasi-retirement” to join the Board as Chair. What was your initial reaction to the invitation from Governor Lombardo, and what influenced you to take on a job that most would categorize as more than “full-time”?



In addition to your in-house experience with the UFC, you have experience practicing law as both an attorney in private practice, and in the public sector as a member of the Nevada Attorney General’s office. What perspective has each of these experiences provided to you as you lead the Board?

I was extremely honored that Governor Lombardo would consider me to lead one of the most important agencies in the State of Nevada. The role intrigued me because I was looking for a position where I could make a difference. Being Chair of the Board provides the opportunity to effect positive change for the gaming industry, and therefore everyone in the State of Nevada.

While the job is certainly more than “full-time,” hard work has never scared me. My parents instilled in me from an early age that hard work (and the long hours that often go with it) is part of an honest living.

Back in college when I began seriously considering law school, I wanted to be either a litigator or to use my legal education as a path into business. As my career has unfolded over the past 32 years, I have enjoyed a wide array of legal and business roles. Each of those roles provided me with valuable experience for leading the Board.

As Chief Deputy Attorney General (“DAG”) of the Gaming Division, I was honored to lead an amazing group of seven deputies who represented the Board and Commission. The role allowed me to learn the Nevada Gaming Control Act and Commission Regulations, to understand the functions of the Board, and to present disciplinary and other contested matters. I also was fortunate to handle a great deal of media relations in Southern Nevada for



Attorney General Frankie Sue Del Papa. Additionally, the Chief DAG role allowed me to interact with the gaming industry, as well as in-house and outside gaming counsel. Many of those attorneys still practice before the Board today.

My experience working in a law firm, and in my solo practice, honed litigation and transactional skills, taught me the importance of clients' time and money, and provided the invaluable perspective of being across the table in regulatory and legal matters.

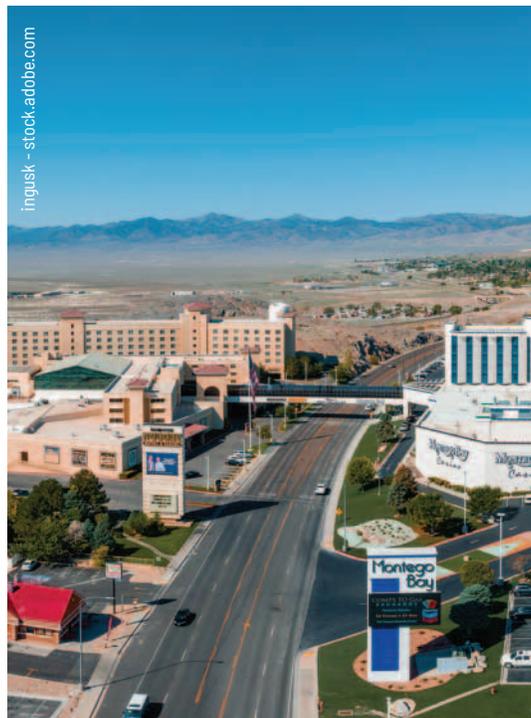
My career with the UFC organization taught me the entrepreneurial aspects of a start-up company that we grew from a handful of employees producing six events a year, into a worldwide media and live events company with hundreds of employees working in offices around the world. The fast-paced work environment personified the concept that a "half day of work is twelve hours." Because it was a start-up company with a small executive group, I either led or assisted with everything, including daily operations, legal, budgeting, finance, event operations, human resources, public relations, marketing and sponsorship. Also, I handled business and legal work in every possible area within sports and entertainment, including negotiating, drafting, editing, and/or executing thousands of agreements for athletes,

worldwide media rights, venues, merchandising, sponsorship, intellectual property, and countless other agreements. The role allowed me to understand everything that business owners, both big and small, endure when building a company that is subject to many layers of government regulation.

All of my past experiences shaped my leadership style into someone who cares about and empowers the frontline employees doing the real work, and into a public servant who understands that regulating doesn't mean roadblocking.

 **What aspect of this role has surprised you the most?**

I didn't fully appreciate the volume of daily administrative demands on the Chair as Executive Director of the agency. Having previously been the Board's counsel, I understood the functions of the Board and the various divisions, I knew about the time required to thoroughly prepare for monthly and special meetings, and I was familiar with all the other necessary regulatory work. What I hadn't anticipated on my first day was how much paperwork is required by the Chair on a day-to-day basis.





Similar to all government agencies, the Board has its fair share of forms, procedures, protocols, reports, and deadlines, and they all serve valid purposes. In addition to the Board's requirements, state government has its own set of administrative forms, procedures, protocols, reports, and deadlines, which again all serve valid purposes. However, I accepted this role to focus on "big picture" changes. Consequently, spending hours each day on administrative matters makes it easy to get sidetracked and lose time for long-term goals. One way I am keeping a "big picture" focus is by challenging the Chiefs of each division at our bi-weekly meetings to bring up new, creative and innovative ways to make the agency, the industry, and the State better.

**Q** **Heads of Nevada's executive agencies have had a particularly specific charge from Governor Lombardo to examine opportunities to streamline licensing and reduce regulatory burdens. What have you been able to accomplish so far in this regard, and what do you want to see happen next?**

I wholeheartedly embraced Governor Lombardo's Executive Order 2023-003, which mandated a statewide review of all regulations to determine those that "can be streamlined, clarified, reduced or otherwise improved." To achieve the Governor's vision, every Board division went through relevant

regulations and proposed ways to make the Board's work more efficient and ways to eliminate "red tape" for the industry.

The Board and Commission reviewed all of the suggestions and forwarded them to the Governor's Office for review. Now, pursuant to Governor Lombardo's Executive Order 2023-008, the Board is preparing for final input and review of the suggested revisions and will be making definitive recommendations to the Commission.

This summer, the Board also started reviewing other regulations to streamline the Board's functions. I strongly believe that effective regulation can be efficiently accomplished. So, we will be focusing on revisions that positively impact the industry. As part of the regulatory review process, I am challenging all Board agents to consider "Why" the Board performs its functions, and "Why" the Board requires the industry to perform compliance requirements. If the "Why": (1) isn't easily understood by the industry, (2) isn't necessary for effective regulation, and (3) isn't the most effective way to accomplish the task, we are going to make changes. While many of the revisions won't make front page news, they will greatly impact the daily work of gaming employees who deal with reporting and compliance functions.





**As part of this publication I have asked the two previous Chairs about what they see as the most exciting technological developments in the gaming industry, whether the Commission's current regulations are able to address a landscape that can change faster than regulations can be adopted, and whether the Board has the tools it needs to adequately evaluate and regulate the proposals brought forward for its consideration. You have already had to publicly answer certain portions of this question, but what do you see as the next major horizon in the gaming industry, and is the Board prepared for it?**

Technology is undoubtedly moving at warp speed in every industry. I'm certain that the amazing operators and manufacturers in Nevada's gaming industry will responsibly use technology to create gaming activity that attracts players. Using the latest technology will be essential for attracting a younger clientele who desire multi-faceted entertainment and experiential adventures.

Some technological developments that can't be too far away include the convergence of real and virtual worlds, artificial intelligence, and modernized methods of payment. It's difficult to predict when those innovations will enter Nevada's gaming industry. However, as regulators, we need to be involved as early as possible so the Board can timely review and respond to all new technologies. For example, artificial intelligence will be a major challenge for regulators in many industries. Artificial Intelligence is so new that regulators will need time to understand it, and time to determine how it can be appropriately used in a regulated environment.

Whether it's in the technology area or any area of the Board's responsibility, I have promised the Board's agents and employees that I will do whatever I can to secure the resources they need to effectively and efficiently regulate Nevada's most vital industry. To keep up with the rapidly evolving gaming industry, the Board needs adequate funding from the Legislature for fair compensation required to recruit and retain excellent agents and employees. Likewise, those capable agents and employees need proper equipment and tools to carry out their vital work. Providing the necessary resources for a strong and effective regulatory environment has proven throughout Nevada's gaming history to be mutually rewarding for the industry and the State.



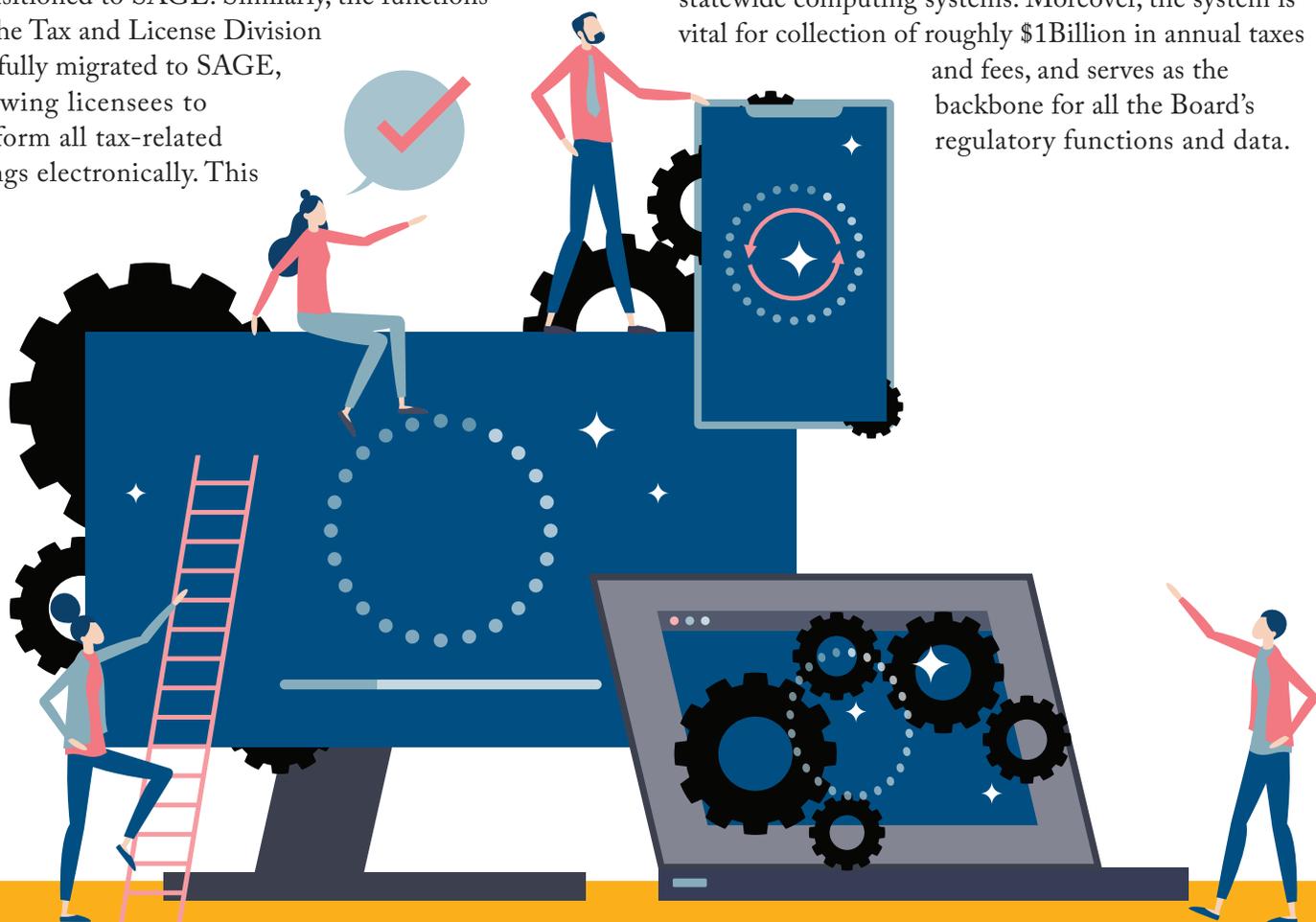
**Congratulations on securing significant funding during the 2023 Legislative Session for expenditures to improve and update the Board’s technology infrastructure. What does that process look like from here now that the funding has been secured, and have you set a hierarchy of priorities for implementation? What can licensees expect to see as these improvements are rolled out?**

Migration away from the Board’s antiquated operating system actually commenced several years ago. As part of the migration, thoughtful workflow was designed to ensure the most essential functions and data were transferred first to the new SQL-based system known as “Systems and Gaming Enterprise” (SAGE). Each Board division has unique functions that will be streamlined and updated by using SAGE. For example, the maintenance and monitoring of all gaming licensee and registration information is an essential function of the Board. Consequently, those functions were considered foundational and were among the first functionalities successfully transitioned to SAGE. Similarly, the functions of the Tax and License Division are fully migrated to SAGE, allowing licensees to perform all tax-related filings electronically. This

functionality eliminates the need for licensees to complete and submit physical forms, and eliminates the manual data entry of tax-related information by NGCB staff. Updating such processes saves countless hours for both gaming licensees and Board staff, and reduces errors related to data entry.

Another improvement is the Enforcement Division’s use of SAGE for electronic filing and monitoring of Suspicious Transaction Reports and Book Wagering Reports. Also, the migration project is currently working on a highly-anticipated Gaming Employee Registration portal, which is expected to be online in the coming months.

Now that the Board has received approval from the Legislature, the Board will be able to move all division functions over to SAGE. The total cost of the project is approximately \$35Million, and is scheduled to be completed over the next two years. When fully operational, SAGE will streamline much of the industry’s interaction with all divisions of the Board. While the total cost of the project may sound expensive, it is quite reasonable compared to many statewide computing systems. Moreover, the system is vital for collection of roughly \$1Billion in annual taxes and fees, and serves as the backbone for all the Board’s regulatory functions and data.





Here in Nevada, our Legislature’s continued support of the gaming industry, and the related entertainment industry, will help ensure that Nevada remains a top destination for tourists. Similarly, the Legislature’s continued support of the Board will ensure that gaming is operated by suitable people and organizations who provide fair gaming, and will ensure accurate tax collections from the activity.



**Did any former Chairs give you any advice coming into this role? Any advice you have already compiled to leave behind for the next one?**

I have had the pleasure of knowing several former Board Chairs, as well as Commission Chairs, for many years. I have also had the honor of recently meeting several other former Chairs. All of them have graciously offered any assistance I may need, while being respectful and cognizant that each Chair must find their own way in this important role. I will gladly call on their experience whenever it will benefit the Board.



**How was your first experience representing the Board before the Nevada Legislature, and did it change your perspective about the regulation of gaming?**

I have quite a bit of experience appearing before state legislatures and regulatory bodies. Included in that experience are many years of convincing legislatures to legalize two athletes getting inside a fenced area and simultaneously using any style of unarmed combat to defeat their opponent. Consequently, it wasn’t daunting at all to ask the Nevada Legislature for a few revisions to the Gaming Control Act, a reasonable operating budget, and necessary funding to update the Board’s 40+ year-old computer system. My experience lobbying to legalize the sport of mixed martial arts reminds me of increased gaming legalization over the past few years. Both efforts involved similar messaging to legislators: (1) the activity is already occurring in your state or jurisdiction, (2) the activity is not being regulated for the safety of your citizens, and (3) your state or jurisdiction is not taxing the activity for the benefit of your citizens. Currently, those same arguments are being used around the world to convince government officials to legalize gaming activity.

To assist future Chairs, I’m in the process of creating a Chair’s Handbook as a reference guide when a new Chair walks into the office. The Handbook won’t offer any advice but will outline immediate responsibilities the new Chair will encounter. I believe a little “roadmap” could be useful for a new Chair because the agency will already be preparing for that month’s Board meeting, the Legislature and budget process may be commencing, and countless administrative. Consequently, a primer of what to expect in the first few months, along with the internal logistics of how to accomplish the tasks, certainly would have assisted me. I’ll make sure the Handbook is a 3-ring binder, not a hardbound treatise. That way, each Chair can easily update the reference guide to correspond with the evolving role of the Board’s Executive Director.



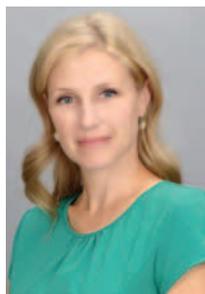


## What advice do you have for gaming attorneys appearing before the Board?

Gaming is one of the most highly regulated industries, and asking for forgiveness after the fact is not how an attorney or client creates a good reputation with regulators. Every attorney who appears before the Board and Commission already knows that complete candor and transparency is the only way to conduct themselves. Any deception will quickly destroy an attorney's reputation.

Rather than giving advice to seasoned gaming lawyers, I usually spend more time helping attorneys who don't regularly handle gaming matters. My guidance to those attorneys is to consult or associate with experienced gaming counsel, because there are simply too many areas where mistakes can be made.

I want every person who appears before the Board to know that I won't try to embarrass them. I personally know how nerve-racking it can be for anyone, even legal counsel, to appear before regulators. As Chair, I will always allow sufficient time for counsel to explain what their client is requesting from the Board, and ample opportunity to answer any questions from Board members. Attorneys and their clients can help the Board, and themselves, by being prepared - which also happens to be the best way to overcome nervousness. ■



Maren Parry is Counsel in the Las Vegas office of Ballard Spahr LLP practicing primarily in the areas of administrative law, privileged licensing and real estate. Maren currently serves on the Gaming Law Advisory Committee of the William S. Boyd School of Law at the University of Nevada, Las Vegas, where she received her J.D. in 2005, and as a member of the Executive Committee of the Gaming Law Section of the State Bar of Nevada.





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- Real Estate and Tax
- Mergers and Acquisitions

# 17

## 17 Years of the *Nevada Gaming Lawyer*, 17 Years of Gratitude

# 17 Years

Welcome to the 17th edition of *Nevada Gaming Lawyer* magazine. This publication is only possible due to the generosity of its advertisers and those who donate their time to contribute articles. We are so grateful to our supporters who have shared their time, expertise, and funding to support our educational and philanthropic efforts. There are far too many amazing people and organizations to name, but there are two folks we would like to mention given some recent changes.



First, we are honored to recognize one of the original gaming lawyers, Professor Tony Cabot. Not only has he had a long career in representing some of the largest licensees in the industry and authored a number of gaming statutes and regulations, but Tony also is a prolific writer on many trending areas in gaming regulation, a well-regarded speaker, and a founder of the Masters of Law (LL.M.) in Gaming Law and Regulation program at the UNLV William S. Boyd School of Law. In May 2023, he retired as the Distinguished Fellow of Gaming Law from the Boyd School of Law.

Tony has supported the Gaming Law Section (“GLS”) over the years and is one of the original members of its Executive Committee (“Committee”). Among other contributions, Tony rejoined the Committee when the GLS was revived in 2000 after a being dormant for nearly a decade, authored articles for this magazine – and has done so again this year with the *Foreword* (page 4) and *The Ethical Casino Company* (page 43) – and spoke at many of the GLS’ annual conferences. Thank you, Tony for all you have done for the GLS, the industry, the state, and the ongoing education of the next generation of gaming lawyers.

In the past year, the Committee has undergone some change. After 23 years, Lou Dorn decided not to seek reappointment. He was critical in helping to resurrect the GLS, writing articles, speaking at the annual conference, providing guidance in many areas, including the *Annual Law Scholarship Golf Tournament* (2001-2011), and serving as an editor for this publication over the years. His contributions are greatly appreciated and he leaves big shoes fill. If you would like to be considered for appointment to the Executive Committee, please email your resume or biographical statement to Judi De Marco, Diversity & Programs Manager and Liaison to the GLS at [judid@nvbar.org](mailto:judid@nvbar.org).

The Committee also undertook the task of reviewing its bylaws regarding succession planning, legislative and policy matters, as well as law student membership. On May 26th, the Committee recommended changes that were approved by the Board of Governors. A copy of the bylaws is available at <https://www.nvbar.org/content/gaming-law-section>.

The *2023 Gaming Law Conference* will be held on Friday, November 17th. For more information, please see the ad on the inside back cover of this magazine. Online registration is available at [nvbar.org/liveseminars](http://nvbar.org/liveseminars).

Finally, if you are interested in writing an article for next year’s magazine and/or being an advertiser, do not hesitate to contact Judi DeMarco. If you are interested in being a speaker at the *2024 Gaming Law Conference* and/or being a sponsor, please reach out to Sonja Finley-Tratos, CLE Manager at [sonjaf@nvbar.org](mailto:sonjaf@nvbar.org) or 702-382-2200. Happy reading. ■

■ Authored by Jeff Rodefer and Erica Okerberg

GOVERNOR'S EXECUTIVE ORDER 2023-03,  
**Nevada Gaming Commission  
Regulations Recommended  
for Improvement and Removal**



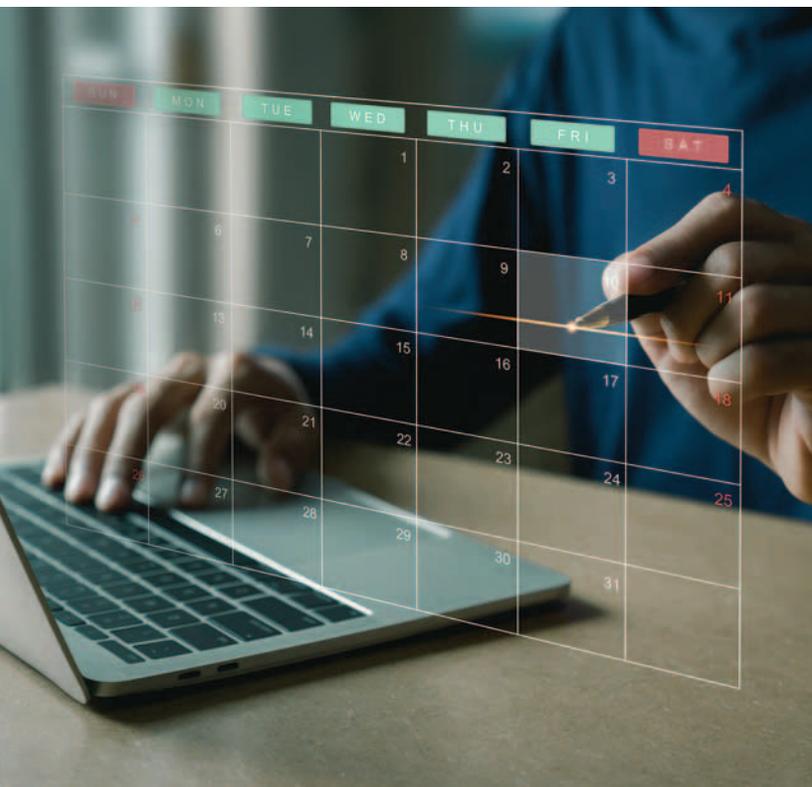


Pursuant to Governor Joe Lombardo’s Executive Order 2023-003, dated January 12, 2023, the issuance of new regulations was immediately frozen, and every executive branch department, agency, board, and commission (referred to collectively as “Agency”) was further ordered to “undertake a comprehensive review of the regulations subject to its enforcement.” Each Agency was directed to prepare and provide a report to the Governor’s office on or before May 1, 2023 detailing how the Agency’s regulations could be streamlined, clarified, reduced, or otherwise improved. The goal of such changes is to ensure those regulations “provide for the general welfare of the State without unnecessarily inhibiting economic growth.” Gov. Ex. Order 2023-003, § 1. Specifically, “[a]s part of its report, every [Agency] shall provide a list of not less than ten (10) regulations recommended for removal, ranking them in descending order of priority.” *Id.* at § 2. “Prior to submitting their respective reports, every [Agency] shall hold a public hearing, after having provided reasonable notice consistent with Chapter 233B of the Nevada Revised Statutes, to key industry stakeholders, to: (i) vet their recommended changes; (ii) solicit input as to the merits of those changes and (iii) identify other regulatory changes stakeholders feel are worthy of consideration. Stakeholder input shall be reflected in the summary of findings and recommendations included in each submitted report.” *Id.* at § 3.



On April 20, 2023, following public workshops, the Nevada Gaming Commission (“Commission”) voted unanimously to include in the report to the Governor’s Office the following Nevada Gaming Commission Regulations (“NGC Reg.”) for improvement:

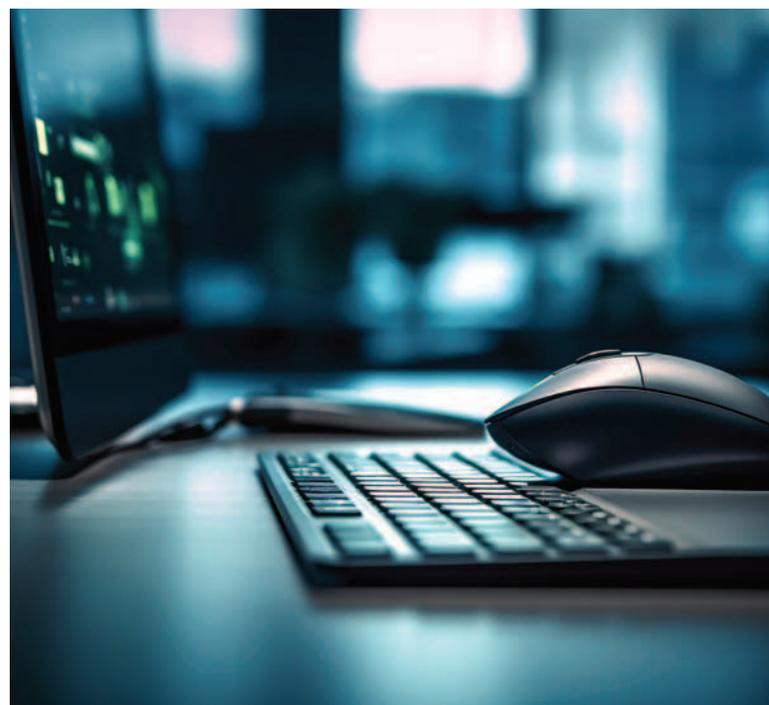
- **NGC Reg. 5.110(2)** – to increase the threshold amount at which licensees are exempt from recording a progressive log on a recurring basis from \$1,200 to \$5,000; to permit all licensees to record the progressive amount at least every 7 days, so long as they have a Board-approved on-line slot metering system.
- **NGC Reg. 5.230** – to align the registration application process for “hosting centers” with other types of registrants as mandated in NGC Regulation 4.200; to make conforming changes to NGC Regulation 4.200(1) to include hosting centers currently required to register under NGC Regulation 5.230.
- **NGC Reg. 6.080(6)** – to expressly allow licensees to submit financial statements for a stub period in conjunction with the financial statements for the first full business year; to lessen the mandatory reporting requirements for which licensees must submit audited or reviewed financial statements in the event of a license or operator approval termination.
- **NGC Reg. 6.090(11)** – to modernize how licensees report amendments to their procedures and written system made since the previous annual report, and to expand those eligible to sign the amendments.
- **NGC Reg. 20.030(7)** – to update the deadline to submit monthly reports of the amounts wagered at establishments for which a disseminator supplies information used to determine winners of or payoffs on the wagers.



- **NGC Reg. 20.070(1)** – to eliminate the requirement for disseminators to submit a waiver request for financial statements issues in the event of license terminations; to allow disseminators to submit one copy of reviewed financial statements instead of two copies; to allow disseminators to submit financial statements for a stub period in conjunction with the financial statements for the first full business year, not later than 120 days after the end of the first full business year.
- **NGC Reg. 23.040(3)** – to allow licensees to utilize the casino cage in lieu of a card room bank without written approval.
- **NGC Reg. 26.060** – to update the maximum total commission from pari-mutuel wagering (other than off-track) that can be deducted to 18 percent of the gross amount handled in each pari-mutuel pool, as reflected in subsection 1 of Nevada Revised Statutes (NRS) 464.040; to update the tax percentage of 3 percent that licensees pay on the total commission deducted on all pari-mutuel wagers, as reflected in subsection 3 of NRS § 464.040.

The Commission also voted unanimously to include in the report to the Governor’s Office the following regulations to be repealed or removed in descending order of priority:

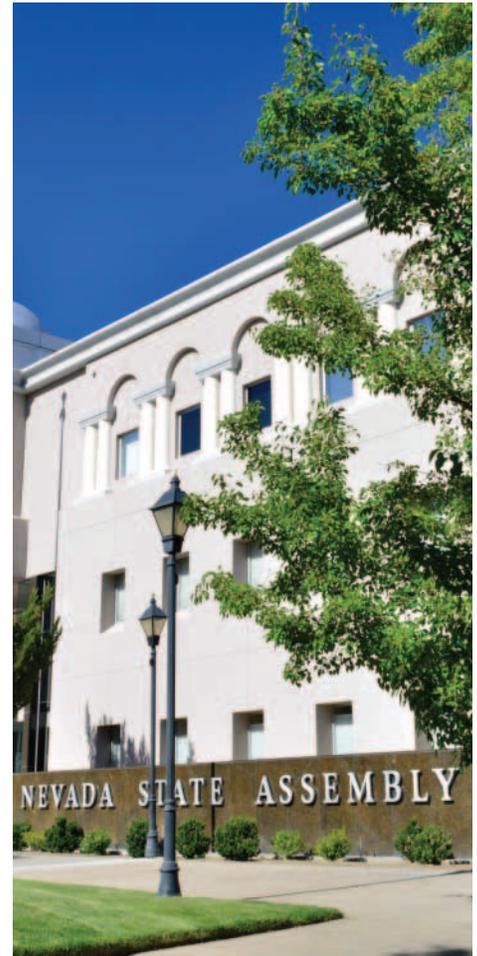
- **NGC Reg. 3.100** – the requirement that nonrestricted licensees file with the Board an employee report twice a year (within 30 days of March 31st and September 30th).
- **NGC Reg. 5.215** – certain requirements to operate a system support or system-based gaming device, such as providing an access list, establishing a revolving fund, and providing monitoring equipment.
- **NGC Reg. 14.105** – the requirement for pre-installation inspection and approval to offer a system game.
- **NGC Reg. 14.210(2)** – the requirement that a restricted licensee obtains approval of a promotional device and to operate it.
- **NGC Reg. 14.170(1)(b)(2)** – the requirement to label program storage media with a product approval number.





- **NGC Reg. 14.160** – the requirement to obtain Board approval to duplicate the contents of program storage media
- **NGC Reg. 5.105(8)** – the requirement that licensees submit a monthly employee hire report to the Board.
- **NGC Reg. 5.200(3)(a)** – the requirement that a licensee provides telephonic and e-mail notification to the Board each time its gaming salon opens for play.
- **NGC Reg. 5.025** – the requirement that keno games with a payout of more than \$250,000 obtain administrative approval.
- **NGC Reg. 6.090(2)(e)** – the requirement that applicants submit an attestation letter from an independent accountant regarding the internal controls during the licensing process.
- **NGC Reg. 5.225(19)** – the requirement that licensees submit wagering account rules for approval prior to implementation.
- **NGC Reg. 5 Surveillance Standards for Nonrestricted Licensees:**
  - (i) Standard 1.010(5) – definition of “slot change booth”
  - (ii) Standard 1(2) – the requirement for surveillance of each slot change booth
  - (iii) Standard 12(9) – the requirement for immediate written notification to the Board’s Enforcement Division if the licensee changes its surveillance system from an analog to DVR format
- **NGC Reg. 5.180(2)(f)** – the requirement that a licensee maintains specific equipment for the Board to monitor the operation of an inter-casino linked system.
- **NGC Reg. 6.118(4)** – language indicating that credit applications and credit instruments issued by licensees before 2006 do not need to contain certain wording. ■

Information compiled by Jeff Rodefer



# GAMING LAW CHANGES

## ENACTED BY THE 2023 NEVADA LEGISLATURE

By Scott Scherer

The 82nd Regular Session of the Nevada Legislature began on Monday, February 6, 2023, and concluded on June 5, 2023. That session was immediately followed by two special sessions. No gaming bills were enacted during the special sessions, but the bill paving the way for construction of a new stadium for the Oakland A's to move to Las Vegas was passed during the second special session of 2023 and will have an impact on the gaming industry. During the Regular Session, it was a slow year for gaming bills with only two gaming bills enacted, but those bills each included some changes of interest to gaming law practitioners. In addition, we will discuss a bill seeking to extend the Live Entertainment Tax ("LET") to resellers, which failed and how that failure impacts the gaming industry in Nevada.

The two gaming law bills enacted were Senate Bills ("SB") 14 and 266. SB 444 was the LET bill that failed. We will discuss the gaming law changes of greatest interest to practitioners in each of these bills in turn.

# SB14

## Administrative Approval of Personal Representatives, Guardians and Next of Kin

SB 14 authorizes the Chair of the Nevada Gaming Control Board (“Board”) to grant an administrative approval to the spouse, next of kin, personal representative, guardian or heir of a licensee. Current law requires an heir, personal representative or guardian to file an application for a temporary license and receive a recommendation from the Board and approval of the Nevada Gaming Commission (“Commission”). *See* NRS §§463.160 and 463.650; *see also* Nevada Gaming Commission Regulation (“Regulation”) 9.020.

This change should save estates time and money and leave more available to creditors and heirs. Especially with relatively small licensed gaming operations, this change could be significant.



## Definition of “Gaming Employee”

Section 1.5 of SB 14 revises the definition of “gaming employee.” For the most part, the changes merely reorganize the definition and group gaming employees into more general categories, allowing more flexibility as titles and job duties evolve. For example, “Boxpersons, Floorpersons and Dealers are now all included in the general category “Table Games Personnel.” Additionally, the former definition included “Employees of a licensee who have local access and provide management, support, security or disaster recovery services for any hardware or software

that is regulated” pursuant to the Nevada Gaming Control Act (the “Act”) and the Regulations. The new definition includes the more general “Information technology personnel who have operational or supervisory control over information technology systems associated with any of the matters related to gaming described in this subsection.”

One new category added to the definition in the Act by SB 14 is “Club venue employees.” Club venue employees have been required to register pursuant to Regulation 5.320. SB 14 specifically includes them in the statutory definition.

## Ability to Limit the Scope of Regulation for Hosting Centers and Service Providers

Sections 2.5, 9.1, and, 9.3 of SB 14 give the Board and Commission the authority to recommend and adopt regulations that limit their authority with regard to the business premises of hosting centers and certain service providers. Certain large companies providing hosting services, cloud computing services, and information technology services expressed concern about the breadth of the power granted to the Board and Commission in NRS § 463.140, especially the power to inspect the premises and summarily seize and remove “any equipment, supplies, documents, or records ... .” NRS § 463.140(2). SB 14 amends NRS § 463.140, NRS § 463.673 (relating to hosting centers) and NRS § 463.677 (relating to service providers) to allow the Board and Commission to limit their authority “based on the type and function” of a hosting center or service provider. Once these new regulations are adopted, the gaming industry in Nevada should have some new service providers registered and available as options to licensees.



# SB266

SB 266 addresses two topics that may be of regular interest to gaming practitioners. It creates exemptions from the definition of gross revenue for certain contest and tournament entry fees that are not retained by the licensee and it changes the foreign gaming reporting requirements. The bill also contains an amendment to the provisions of the Act governing additions of land to a gaming enterprise district in Clark County, but the conditions to obtain such exemptions are very narrow [at least 20 acres, separated by an interstate highway from residential areas, schools and churches, and partially within the Las Vegas Boulevard gaming corridor] and not likely applicable to most Clark County property owners.

## Contest and Tournament Entry Fees

Section 1 of SB 266 amends the definition of “gross revenue” in the Act (NRS § 463.0161) to exempt entry fees for contests and tournaments held in person at a licensed gaming establishment to the extent the entry fees are designated for and paid (1) to employees in addition to their regular compensation, (2) to nonprofit, charitable or fraternal organizations, or (3) as prizes for the present or future contests or tournaments. While SB 266 only applies these changes to in-person contests and tournaments at licensed gaming establishments, the Commission may adopt regulations to apply similar standards to contests and tournaments conducted online.

The advocates for SB 266 argued that in contests or tournaments using non-cash chips, employees were less likely to receive tips of any value, so many licensees include gratuities in the tournament entry fees. In other cases, licensees designate a portion of the entry fees for a charity and the licensee acts as merely a pass-through for those charitable contributions. Finally, it is common in poker rooms for a certain portion of entry fees to be used to fund promotional prizes such as “bad beat” jackpots. As long as that portion of the entry fee is ultimately paid to players, SB 266 exempts it from gross revenue, although such amounts are not later deductible from gross revenue when paid out to players.

## Foreign Gaming Reporting

Current law requires Nevada licensees who engage in gaming activities in other jurisdictions to 1) establish a revolving fund with the Board no later than 30 days after executing a definitive agreement or filing an application for a license to participate in gaming in another jurisdiction; 2) file all documents filed by the licensee or an affiliate with the other jurisdiction as soon as foreign gaming begins, and 3) file annual reports addressing compliance with regulations, procedures for audit and procedures for surveillance in the other jurisdiction. *See* NRS § 463.700 and NRS § 463.710. The Act also requires the filing of quarterly reports addressing changes in ownership or control, changes in officers, directors or key employees, complaints, disputes or other actions against the licensee or its affiliate, arrests of employees related to gaming, and arrests of owners, officers, directors or key employees for any offense that would constitute a gross misdemeanor or felony in Nevada. *Id.*

In lieu of the documents to be filed when participation in foreign gaming begins and the annual reports required under current law, Section 1.5 of SB 266 amends NRS § 463.710 to require notice when participation in foreign gaming begins and notice when it entirely ceases. The quarterly reports, while revised in certain respects, are still required.

These changes should reduce the paperwork burdens on licensees participating in gaming in other jurisdictions. It will also reduce the number of documents Board agents will be required to review. Of course, the Board can always request more information from the licensee if it has any questions or concerns about the foreign gaming operation. *See* NRS § 463.585(2); NRS § 463.635(1)(b)(12); NGC Regulations 5.060 and 5.070.



# SB444

A bill that did not pass may also have a significant impact on Nevada's gaming industry. SB 444 sought to impose Nevada's live entertainment tax ("LET") to resellers of tickets, also known as "ticket brokers". See NAC 368A.093. Under current law, where the location of live entertainment is not on the premises of a licensed gaming establishment, the "taxpayer" is the owner or operator of the facility where live entertainment is provided or, where the live entertainment takes place at a publicly owned facility or on public land, the person who collects the taxable receipts. NRS § 368A.110. Where a gaming licensee is acting as a ticket broker and is not the taxpayer, the LET applies at the time of purchase from the taxpayer on the admission price paid to the taxpayer, regardless of whether the gaming licensee will resell the tickets, potentially at a higher price, or include them in packages with rooms, food, beverage or other services.

Under certain circumstances, these provisions may exempt gaming licensees from collecting and remitting LET on resales of tickets or travel packages. For example, licensees may be considered a ticket broker when selling packages for events at the new Tahoe Events Center owned by the Tahoe Douglas Visitors Authority or tickets to the Las Vegas Formula 1 Grand Prix. In each case, the "taxpayer" is likely to be someone other than the gaming licensee.

Even in such cases, the licensee will be required to pay LET to the taxpayer, who will collect it from the licensee and remit it to the Department of Taxation. In many cases, the tickets are given as "comps" to good customers or included in packages only at the cost paid by the licensee, so there may not be any direct financial impact, but the failure of SB 444 during the past legislative session may allow licensees to avoid the burden of collecting and remitting LET to the Board when they are acting as ticket brokers. There are some nuances in the applicable statutes and regulations that will need to be considered based on the particular facts of each case and failing to collect and remit the LET when required can have significant financial impacts to the licensee, so it is advisable to conduct a full analysis before deciding not to collect or remit the LET.





# Conclusion

While changes to the Act were fairly limited during the 2023 Session of the Nevada Legislature, some of the changes, in particular the changes related to administrative approvals of personal representatives, hosting centers and service providers, contest and tournament entry fees and foreign gaming reporting, should have positive impacts on Nevada gaming licensees. ■



Gaming law veteran Scott Scherer uses his unique mix of regulatory, business, policy and legal perspectives to help clients achieve their goals.

Scott's more than 30 years of gaming experience includes serving as a member of the Nevada Gaming Control Board, where he had responsibility for the Investigations, Audit and Technology divisions; as a supervising deputy in the Gaming Division of the Nevada Attorney General's Office; and as in-house counsel for a major gaming device manufacturer (where he also served for a time as managing director of an international subsidiary). These experiences inform his representation of clients on state, national and international business, regulatory and compliance matters. Over the course of his career, Scott has worked with clients in Japan, the Philippines, Singapore, Macao and beyond. In addition to his private sector clients, Scott has advised and assisted various governments in drafting gaming laws and regulations. When not working on complex gaming and compliance matters, Scott represents clients with respect to other regulatory issues, including state and local tax, transportation and legislative matters.

Scott has served as chair of the International Association of Gaming Regulators, a member of the Nevada Assembly, General Counsel and Chief of Staff for Nevada Governor Kenny Guinn, one of Nevada's representatives to the Conference of Commissioners on Uniform State Laws, a member of the Nevada Commission on Ethics and a member of the Nevada Gaming Policy Committee.



# Capitol Hill Update on Gaming

There have been a few federal legislative efforts related to gaming in 2022 and 2023. Below is a brief outline of these bills.

## H.R. 6937

Congresswoman Dina Titus (D-NV) sponsored H.R. 6937. The bill was introduced on March 3, 2022 and subsequently referred to the House Committee on Ways and Means. The bill **proposes to increase the reporting threshold for slot machine jackpots from \$1,200 to \$5,000** (<https://www.congress.gov/bill/117th-congress/house-bill/6937/text?s=6&r=1&q=%7B%22search%22%3A%5B%22slot+machine%22%5D%7D>)



## H.R. 1661

Congresswoman Titus sponsored H.R. 1661, also known as the **"Discriminatory Gaming Tax Repeal Act of 2023."** The bill was introduced on March 17, 2023 and subsequently referred to the House Committee on Ways and Means. The bill **proposes to repeal the federal excise tax on wagering** (<https://www.congress.gov/bill/118th-congress/house-bill/1661/text?s=1&r=2&q=%7B%22search%22%3A%5B%22gaming%22%5D%7D>)



## H.R. 967

Congressman Paul Tonko (D-NY) sponsored H.R. 967, also known as the **"Betting on Our Future Act."** The bill was introduced on February 9, 2023 and subsequently referred to the House Committee on Energy and Commerce. On February 17, 2023, the bill was sent to the Subcommittee on Communications and Technology. The bill would **prohibit advertising of sports wagering on electronic medium** (<https://www.congress.gov/bill/118th-congress/house-bill/967/text?s=1&r=16&q=%7B%22search%22%3A%5B%22gaming%22%5D%7D>)



## H.R. 1220

Congressman John W. Rose (R-TN) sponsored H.R. 1220, also known as the **"Bank Privacy Reform Act."** The bill was introduced on February 7, 2023 and subsequently referred the House Committee on Financial Services. The bill **proposes to prohibit all government entities from obtaining copies of confidential records or the financial information therein of a customer from a financial institution without a detailed search warrant pursuant to Section 1106** (<https://www.congress.gov/bill/118th-congress/house-bill/1220/text?s=4&r=1&q=%7B%22search%22%3A%5B%22bank+secrecy+act%22%5D%7D>)



## S. 2498

Senator Amy Klobuchar (D-MN) sponsored S. 2498, also known as the **"Hotel Fees Transparency Act of 2023."** The bill was introduced on July 26, 2023 and referred to the Committee on Commerce, Science, and Transportation. The bill **would authorize the Federal Trade Commission and state attorneys general to bring civil enforcement actions regarding certain trade practices by short-term lodging operators** (including "a hotel, motel, inn, short-term rental, or other place of lodging that advertises at a price that is a nightly, hourly, or weekly rate") **that "advertise, display, market, or offer in interstate commerce, including through direct offerings, third-party distribution, or metasearch referrals, a price for a place of short-term lodging that does not include all required fees** (excluding any taxes or fees imposed by a government or quasi-government entity and assessment fees of a government-created special district or program)" (<https://www.congress.gov/bill/118th-congress/senate-bill/2498?s=1&r=23>).



# Considerations from the Nevada Gaming Control Board's Compliance Unit

By Supervisor Pam Brown, Senior Agent Candice Nishizawa,  
and Agents Anthony Beehler, Don Mincheff, and Victoria Park

During 2023, the seventh year of operation for the Nevada Gaming Control Board's Compliance Unit ("Compliance Unit"), the focus has been on establishing and maintaining strong working relationships with the gaming industry. This includes meeting with compliance committees in-person and exposing our new team members to the ever-evolving world of gaming compliance. This year's article addresses several important topics, including independent members, unsuitable persons, and internal audits, which have been identified through discussions with various companies and compliance committee members as needing more dialogue.

## New Agents – Compliance Unit

This year, the Compliance Unit welcomed Victoria ("Tori") Park and Anthony Beehler to the team. Tori started with the Compliance Unit in September 2022 and graduated from the University of California San Diego with a bachelor's degree in mathematics and economics. Tori previously spent time abroad working as an English as a second language teacher in Seoul, South Korea.

Anthony joined the Compliance Unit in May 2023, earning a bachelor's degree in economics and MBA from the University of Nevada, Reno. Anthony brings many years of experience with him as his prior position focused on distribution operations in compliance with state and federal regulations.

7th  
YEAR



## Compliance Committee - Independent Members

Licensees subject to an Order of Registration or license condition are required to establish and maintain a gaming compliance program. As part of this requirement, the licensee must appoint members to the compliance committee, specifically including “one such member who shall be independent and knowledgeable of the [Nevada Gaming Control] Act and the [Nevada Gaming Commission’s] Regulations.”

The Merriam-Webster Dictionary defines “independent” as “not subject to control by others: self-governing, and not affiliated with a larger controlling unit.” Black’s Law Dictionary defines “independent” as “not dependent; not subject to control, restriction, modification, or limitation from a given outside source.”

Independent, as previously used and for gaming compliance purposes, follows The Merriam-Webster Dictionary and Black’s Law Dictionary definition of “independent.” The use of the term “independent” is not to be confused with the Standards on Director Independence issued by the SEC that states, “Directors shall be independent of management.” The independent compliance committee member is expected to be completely independent of the company in all other capacities.

For example, the independent director of the company’s board that is also appointed to the compliance committee does not fulfill the independent compliance committee member requirement. This does not mean company directors cannot be appointed to the compliance committee; however, another individual must be appointed to satisfy the independent compliance committee member requirement.

Additionally, the Order of Registration or license condition requires, at a minimum, one independent compliance committee member. Companies are not restricted to appointing only one independent member and should consider additional independent members or a fully independent compliance committee based on the extent of the company’s operations.

## Unsuitable Person

For gaming compliance purposes, an unsuitable person is defined as any association, corporation, firm, partnership, trust, or another form of nongovernmental business association, or natural person that has been denied a gaming license, had a gaming license revoked, or who has been determined to be unsuitable or unqualified to associate with a gaming operation by any gaming authority. This is the narrowest acceptable definition. Many compliance plans include a broader definition including those potential business associates that the company and compliance committee determine to be unsuitable due to various items such as a person’s history, associations, financial practices, financial condition, business probity, or other extenuating circumstances. This broader definition has many advantages, as not every person with an unsuitable background has been formally found unsuitable by a gaming authority, but doing business with such unsuitable persons may, nevertheless, reflect on the company’s suitability.

A company’s ability to identify, track, and internally communicate unsuitable persons is crucial in protecting the company’s business interest. The methods used to accomplish this are at the company’s discretion. However, the size of the company’s operations and compliance staff levels should be considered when determining the methods used.

By documenting, communicating, and periodically updating these records, companies can make better-informed decisions involving third parties. Ensuring proper controls are in place will help mitigate the risk of doing business with unsuitable persons that could potentially jeopardize a company’s gaming licenses. These records also serve as a valuable resource to regulators when completing compliance reviews.



## Summary

In summary, the Compliance Unit appreciates having open lines of communication with compliance committee members, compliance departments, and the gaming industry. From our perspective, this communication is an integral part of maintaining the excellence standards set forth by the gaming industry. If there are any gaming compliance topics you would like to discuss further, please reach out to any team member of the Compliance Unit. ■



### **Anthony Beehler – Agent**

Anthony Beehler is the newest Agent with the Nevada Gaming Control Board's Investigations Division, Corporate Securities Section, Compliance Unit. Anthony brings many years of experience within the pharmaceutical industry, focused primarily on distribution operations in compliance with state and federal regulations. Prior to joining the board, he spent 21 years specializing in temperature-controlled distribution and quality assurance for a large pharmaceutical manufacturer.



### **Donald Mincheff – Agent**

Donald Mincheff is an Agent with the Nevada Gaming Control Board's Investigations Division, Corporate Securities Section, Compliance Unit. He has 15 years of experience conducting applicant licensing investigations, compliance reviews, and corporate licensing investigations for the Board. Prior to his career with the Board, Agent Mincheff conducted security clearance investigations for the U.S. Department of Defense for 23 years and was an Operations Supervisor with the Social Security Administration for 11 years.



### **Victoria Park – Agent**

Tori Park is an Agent with the Nevada Gaming Control Board's Investigation, Corporate Securities Section, Compliance Unit. She has over a year of experience conducting compliance reviews and corporate licensing investigations for the Board. Prior to starting at the Board, Tori graduated from UC San Diego, majoring in Mathematics and Economics. She also spent two years as a supervisor at Starbucks and over a year working abroad in Seoul, South Korea.



### **Candice Nishizawa – Senior Agent**

Candice Nishizawa is a Senior Agent with the Nevada Gaming Control Board's Investigations Division, Corporate Securities Section, Compliance Unit. She has five years of experience conducting compliance reviews, corporate licensing investigations, and Foreign Gaming reporting for the Board. Prior to her career with the Board, Senior Agent Nishizawa spent 12 years specializing in Bank Secrecy Act/Anti-Money Laundering compliance and was a BSA Officer in the banking industry.



### **Pam Brown – Supervisor**

Pam Brown is a Supervisor with the Nevada Gaming Control Board's Investigations Division, Corporate Securities Section, Compliance Unit. She is in her second year of managing the Compliance Unit but has 17 years of experience in the Corporate Securities Section conducting corporate licensing investigations and compliance reviews for the Board. Prior to becoming the Compliance Unit Supervisor, Pam was a Special Agent for the Restricted Program, overseeing the unit's operations in the Carson City office for five years.

## Compliance Plan and the Internal Audit Cycle

Including the compliance plan in a company's internal audit schedule has proven to be a useful function to companies as it provides a recurring opportunity to assess the integrity of adherence to the compliance plan, and detect potential areas of compliance risk.

Internal testing of procedures and processes required by the compliance plan, as well as an examination of requisite due diligence efforts and recordkeeping, provides reassurance to the compliance committee that the company has proper controls in place. The internal audit should also test the lines of communication between compliance personnel, company executives and directors, and the compliance committee. The periodic internal audits will ensure compliance procedures align with continually changing business operations and regulatory requirements. Additionally, the areas of compliance risk identified can be corrected before the company's next regulatory compliance review.

The inclusion of the compliance plan in the internal audit schedule serves to reinforce the importance of compliance within an organization and determine the adequacy of compliance training throughout the organization.

It should be noted that Bank Secrecy Act and Anti-Money Laundering compliance internal audits are separate from an internal audit completed on the compliance plan that is required by the Order of Registration or a license condition.



# New Nevada Gaming Commission **Cybersecurity Regulation**

By Glenn Light, Patrick Emerson McCormick, and Karl Rutledge

In an ever increasingly digital world, the significance of cybersecurity has reached unparalleled heights, and, in turn, has become an essential safeguard for individuals, businesses, and governments alike. Accordingly, on December 22, 2022, the Nevada Gaming Commission (“NGC”) amended its regulations to create NGC Regulation 5.260, Cybersecurity. This Regulation took effect on January 1, 2023.

Regulation 5.260 requires that “gaming operators take all appropriate steps to secure and protect their information systems from the ongoing threat of cyberattacks.” This Regulation applies to any entity with: a nonrestricted license as defined in NRS § 463.0177; a gaming license allowing for the operation of a race book; a gaming license that allows for the operation of a sports pool; and/or a gaming license that permits the operation of interactive gaming. These are defined as “covered entities.”

Most of the requirements found in Regulation 5.260 are reasonable best practices for any entity that has substantial capital and consumer data. These new requirements can be summarized in five categories.

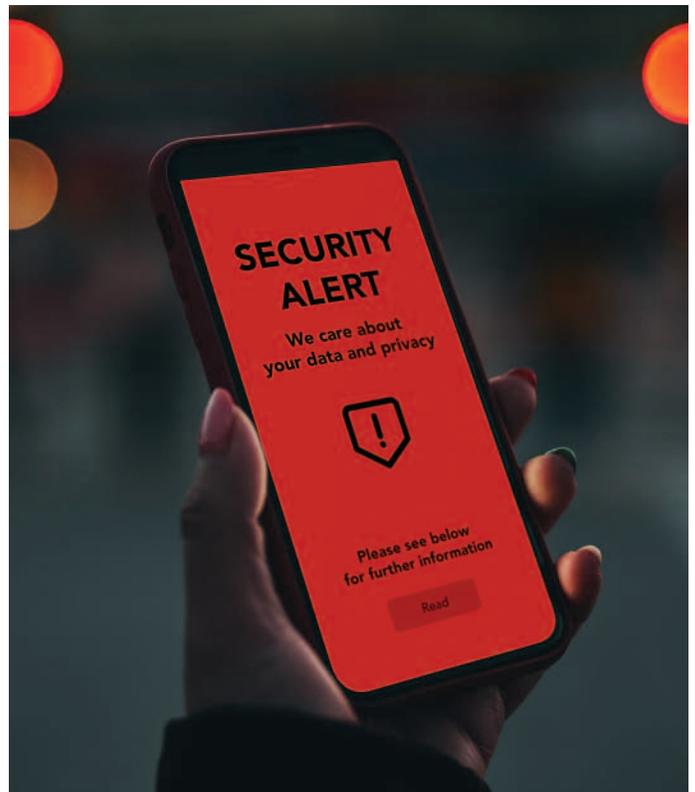


**First**, a covered entity must perform an initial risk assessment and develop best practices, then monitor and regularly update them as needed. Regulation 5.260(3) provides a list of best practices for guidance in developing the covered entity’s own best practices (including, without limit, CIS Version 8, COBIT 5, ISO/IEC 27001, and NIST SP 800-53, or later versions thereof). Importantly, covered entities have until December 31, 2023, to comply with this requirement.

Undertaking an initial risk assessment will be the first critical step in ensuring compliance with Regulation 5.260. Covered entities should identify all assets (including hardware, software, data, and networks), assess potential vulnerabilities, and determine the potential impact of cyber threats on each of these assets. A covered entity may use a third-party cybersecurity professional to provide a comprehensive and technically detailed risk assessment, as well as to provide ongoing monitoring and evaluation.

While not explicitly required by Regulation 5.260, any covered entity would do well to formulate a robust data breach response plan after performing its risk assessment. Such a plan should include well-defined procedures for identifying, containing, and eradicating a potential cyber threat, and address the recovery process as well as post-incident review and analysis. All the requirements in Regulation 5.260 should be preemptively addressed in this plan.

**Second**, Regulation 5.260(4) creates a notification requirement in the event of a cyberattack, requiring providing notice to the Nevada Gaming Control Board (“NGCB”) within 72 hours after becoming aware of the cyberattack. This is in addition to an entity’s requirement to comply with NRS § 603A.220, which governs data breaches in the State of Nevada generally, and any other relevant state or Federal statutes.





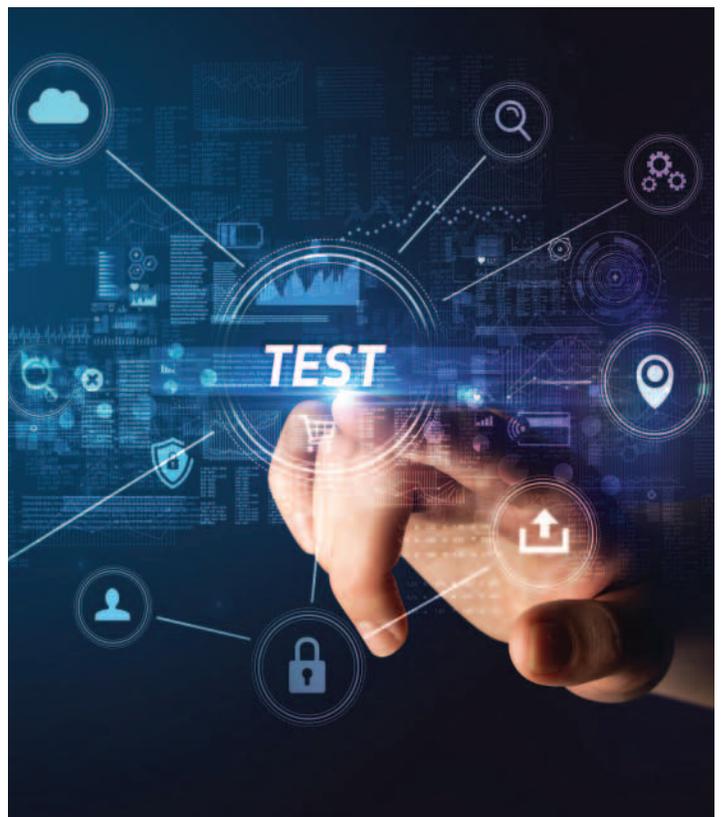
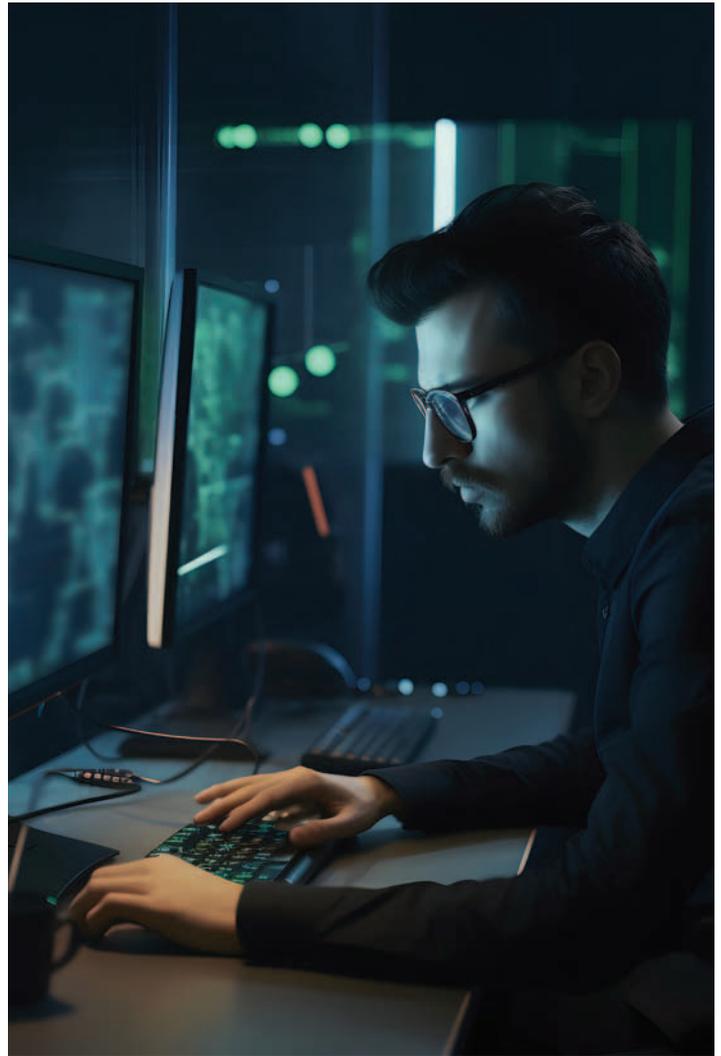
The data breach response plan should also include a clear communication strategy for managing external and internal communications after an incident. This includes a framework for informing all affected parties, from customers to employees. It is important to understand the legal obligations for notification, which may vary state-by-state and also depend on federal guidelines. All these requirements, timelines, and contact information can and should be explicitly included in a comprehensive data breach response plan.

**Third**, covered entities must also perform an investigation into any cyberattack, including documenting the results of the investigation and making a report available to the NGCB with specific findings, including the cause and extent of the attack. This requirement goes above and beyond most existing notification requirements, which do not typically require the breached entity to disclose its post-attack report.

Responding entities should take care in their written communications related to the post-attack forensic investigation, even with their attorneys. Some courts have held that such investigations are performed for business purposes rather than for legal reasons, and as such no attorney-client privilege protects the entity's communications with its attorneys. Nevada courts have not yet opined on this matter, but Regulation 5.260's requirement for the creation and disclosure of a post-attack report increases the likelihood that a court will view communications related to the investigation as a business operation, not a legal one.

**Fourth**, Regulation 5.260(5) requires Group I licensees (per Reg 6.010(8)) to have a designated, qualified individual responsible for the covered entity’s cybersecurity best practices and procedures. Group I licensees must also perform annual audits and reviews of their best practices, procedures, and security. While Regulation 5.260(5) does not address all covered entities, any covered entity should also review its best practices and procedures at least annually to ensure compliance with Reg 5.260(3), which requires any covered entity to “continue to monitor and evaluate cybersecurity risks to its business operation on an ongoing basis.”

While not required, a Group I licensee (and any other covered entity) should consider an annual tabletop exercise in addition to its annual audit and review. Conducting regular tabletop exercises help identify potential gaps in a security system and refine the data breach response plan. They also train the members of the covered entity in the flow of responding to a breach, much like a practiced fire drill.





prepared and protected from a data breach, which will in turn provide a return on investment beyond compliance if done with intentionality. The vague and potentially onerous notification requirements will increase costs in the event of a breach, but not significantly beyond other existing Nevada and Federal notification requirements. Due to the strict nature of the new Regulation 5.260 requirements, every covered entity would do well to have a data breach response plan that it reviews and updates at least annually. ■



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**Finally**, all steps taken to comply with Regulation 5.260 must be memorialized in writing and retained for five years, per Regulation 5.260(6). Failure to exercise due diligence in compliance with any section of Regulation 5.260 “shall constitute an unsuitable method of operation and may result in disciplinary action.” While not entirely clear from the language of Regulation 5.260(6), it is likely a covered entity need only retain the documents necessary to memorialize its compliance that must be retained and produced upon request (and not all writings created to comply with Regulation 5.260). This subsection is also silent on attorney-client communication privilege. Until there is further guidance on this issue, a covered entity and its counsel should proceed as though all written communications relating to a data breach response covered by Regulation 5.260 may not be protected by attorney-client communication privilege.

In conclusion, the requirements set forth in Regulation 5.260 are fairly reasonable, advisable precautions that will make covered entities better

<sup>1</sup> For example, each state has its own set of requirements in the event of a data breach, including who must be notified, timelines for the notification, and what information must be included. The Federal Trade Commission provides additional guidelines for businesses on what to do in the event of a data breach.

<sup>2</sup> Current revenue thresholds for Reg 6.010(8) can be found here: <https://gaming.nv.gov/modules/showdocument.aspx?documentid=8372>



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# FIVE CONSIDERATIONS

## When Preparing a Gaming Employee Appeal Hearing Before the Nevada Gaming Control Board

By Chan Lengsavath and Augusta Massey

The Nevada Gaming Control Board (“Board”) is tasked with registering all gaming employees in the state of Nevada.<sup>1</sup> When the Board’s Enforcement Division objects to a gaming employee’s application for registration, the employee has the right to appeal to the Board’s hearings office.<sup>2</sup> If an appeal is filed, the applicant has the opportunity to appear before the Board to seek a reversal of the objection.<sup>3</sup> This article offers general guidance on five considerations a legal practitioner should make when preparing to represent a gaming employee appealing an objection to their gaming employment registration before the Board.



**1. Honesty is crucial:** When an agent from the Enforcement Division of the Board objects to a gaming employee's registration, it is usually after an extensive background search. Typically, the background investigation includes information from police reports. When the investigation is complete and the Board's Enforcement Division objects to an applicant's registration, the agent notifies the gaming employee of the objection and identifies the reason(s) for the objection and the corresponding statute.<sup>4</sup> The Board may suspend or object to the registration of an applicant as a gaming employee for any cause deemed reasonable by the Board.<sup>5</sup> With this in mind, it is important for attorneys to thoroughly review information about any arrests,

warrants, or citations with their client before the hearing. At the hearing, it is imperative that the gaming employee is honest, transparent, and forthcoming. Lack of candor to the hearing officer is taken very seriously and damages credibility. Being honest may not necessarily result in a reversal of the objection to the employee's gaming employment registration, but it will be helpful for future hearings because a future hearing officer will review it and see that the gaming employee has been honest. Therefore, it is crucial that attorneys work closely with their clients to ensure that they are being truthful at the hearing. A hearing before the Board is an administrative matter, not criminal. Being open and candid is a must.

## 2. Recency of the objectionable event:

Another consideration for legal practitioners representing gaming employees is determining the recency of the objectionable event. The statutes allow the Board to analyze the severity, relevancy, and recency of the objectionable event(s) to anticipate the likelihood that a gaming employee may commit future objectionable acts. As it relates to severity of the offense, consider whether your gaming employee client has an extensive criminal background. If so, the likelihood of success may be diminished. It gets even more complicated when the gaming employee has been convicted for the same type of crime on multiple occasions. Turning to relevancy, if a gaming employee has been arrested for assault with a deadly weapon and is applying for a position as an armed security guard, it may be more likely that the Board will sustain the objection, given the close link between the position of an armed security guard and the criminal history of assault with a deadly weapon. With regard to recency, if a gaming employee was arrested less than a year ago, it may be less likely, but not impossible, that they will have a favorable result. The Board wants to see that enough time has elapsed since the objectionable event such that the gaming employee has had time to demonstrate that they will not commit similar acts in the future. However, gaming crimes, especially those involving cheating and theft, are very detrimental to an applicant's chances of success at the hearing. Prior to an amendment in 2020, Nevada Gaming Commission Regulation 5.104(4) required the Board to preclude employees that committed gaming crimes to be registered for a period of at least 10 years. The amendment has now granted the Board some flexibility to reverse an objection before the 10 year-limit, but it is still difficult to overcome such serious, relevant, and recent charges.

## 3. Open criminal cases and constructive custody:

The statutes unambiguously state that the Board may object to a gaming employee's registration if the employee has "[b]een placed and remains in the constructive custody of any federal, state or municipal law enforcement authority."<sup>6</sup> Although Nevada courts have not specifically opined on the issue, California law provides that constructive custody includes those released on their own recognizance pending a hearing on the merits.<sup>7</sup> If a criminal case is still open and pending final adjudication, it is likely that the Board will find the gaming employee is still under constructive custody of the court. Therefore, legal practitioners should have a discussion with the applicant, weighing the implications of filing an unsuccessful appeal versus the time limits outlined in Nevada Gaming Commission Regulation 5.109 regarding when another appeal can be requested.<sup>8</sup>

## 4. Active criminal warrants:

Similar to consideration number three, legal practitioners should determine whether the gaming employee has any open/outstanding criminal warrants, including warrants for failure to pay traffic tickets or failure to appear at a court hearing. If a gaming employee appears at a scheduled hearing before the Board, and still has an outstanding warrant, the employee could be arrested upon arrival. If the gaming employee is arrested, the hearing will not proceed and will be rescheduled. The Board complies with all local, state, and federal laws and cooperates with other law enforcement agencies.



## 5. Necessary testimony and other evidence:

Lastly, when preparing to appear before the Board, a legal practitioner should be strategic in determining what evidence will support the appeal.<sup>9</sup> “At the hearing, the Board shall take any testimony deemed necessary” [emphasis added].<sup>10</sup> As such, a legal practitioner may bring any witness or witnesses, who can offer credible testimony in support of their client’s appeal, but only if they are deemed necessary. For example, it may not be necessary to bring five individuals who will testify that the gaming employee is a hard worker. Additionally, in lieu of witnesses, a legal practitioner may present letters of recommendation (such as past gaming employers) and/or “any other evidence”<sup>11</sup> that will help the appeal. Again, the emphasis is on evidence, including testimony or any document, that is deemed necessary to bolster the gaming employee’s appeal.

In summary, legal practitioners should keep these five considerations in mind when representing gaming employees before the Board. Developing a thorough understanding of the employee’s background to offer full candor to the hearing officer is a crucial first step in preparing for an appearance before the Board. Next, a legal practitioner should determine when the objectionable event occurred and whether it is too soon to appeal the objection. Additionally, an inquiry should be made into open criminal cases, especially if constructive custody was one of the reasons the agent objected to the gaming registration. Furthermore, a legal practitioner should ascertain if the client has any active criminal warrant, as it could result in an arrest at the hearing. Finally, a legal practitioner should carefully consider if there are any credible witnesses who are necessary to the appeal and provide any other evidence that could support the appeal. ■



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<sup>1</sup> Nev. Rev. Stat. § 463.335(1)–(3).

<sup>2</sup> Nev. Rev. Stat. § 463.335(11).

<sup>3</sup> *Id.*

<sup>4</sup> Nev. Rev. Stat. § 463.335(12)(a)–(g).

<sup>5</sup> Nev. Rev. Stat. § 463.1405(3) states: “The Board has full and absolute power and authority to recommend the denial of any application, the limitation, conditioning or restriction of any license, registration, finding of suitability or approval, the suspension or revocation of any license, registration, finding of suitability or approval or the imposition of a fine upon any person licensed, registered, found suitable or approved for any cause deemed reasonable by the Board.”

<sup>6</sup> Nev. Rev. Stat. § 463.335(12)(f).

<sup>7</sup> *In re Smiley*, 66 Cal.2d 606, 614 (1967).

<sup>8</sup> For example, if an applicant is scheduled to complete her probation in two months, she may want to consider filing her appeal after completing probation. Otherwise, if an immediate unsuccessful appeal is filed, she would have to wait at least one year from the date of the final action.

<sup>9</sup> Nev. Rev. Stat. § 463.335(11).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

# The Ethical Casino Company

By Anthony Cabot

Casinos face two ethical dilemmas. First, can a casino company be ethical if gambling itself is unethical? Second, if so, what is an ethical gaming company?

I will concentrate on the latter, but they interrelate. Is the gambling industry ethical? Common law courts have long had an issue with gambling contracts, because the parties in this contract are not exchanging traditional value. Here, one party wins, and the other loses. This difference was the basis for the common law prohibition against gambling contracts. A philosophical argument exists for this conclusion. John Hobson, an early twentieth-century philosopher, noted: “The desire to take unearned gains is... itself immoral, for such gains of necessity imply an injury to some other known or unknown persons.”

Limited gambling exists based on utilitarian economic principles. This school of thought argues that gambling is acceptable if it brings about the greatest overall happiness for the greatest number of people. Under this theory, casinos are not inherently good or bad; rather, their ethicality depends on how their impact on society. Professor William Eadington recommended that governments considering legal gambling should weigh the benefits, such as taxes, jobs, economic stimulation, and fulfilling consumer demands against costs, such as economic displacement, effects on crime, and dysfunctional gambling. Governments should next consider reasonable, cost-effective methods to minimize costs. Then, “if, at that point, aggregate benefits do not exceed aggregate costs, or the proposed gambling industry is not economically viable, then creation of a new gambling industry would not be wise.”<sup>1</sup>



*“The desire to take unearned gains is . . . itself immoral, for such gains of necessity imply an injury to some other known or unknown persons.”*



But the equation does not end with legalization. The casino industry is mistaken to think society should treat it like any other lawful industry. So, we end up with two very different potential outcomes.

- 1. Gambling is unethical for anyone to take part in - the prevailing rule for centuries and still the prevailing rule in many countries.**
- 2. Gambling is ethical if we minimize the adverse effects (costs) on society and achieve the desired benefits.**

Casino gaming lives as we know it in the second universe. However, another alternative is absent—that gambling is like other pursuits and should exist with little or no government oversight.

Regulation is a rough system for the government to achieve the best balance between achieving the goals of allowing casinos and minimizing its harmful effects. Casinos can respond to this regulation in three ways.

- 1. Bad actors** (immoral) try to maximize profits even if their pursuit of money violates laws and regulations.
- 2. Neutral actors** (amoral) try to maximize profits while complying with the laws and regulations.
- 3. Ethical actors** (moral) maximize profits while complying with laws and regulations and taking steps to minimize the adverse effects of their activities.

The difference between neutral actors and ethical actors is pronounced. Simply, a company can be legally compliant but exercise questionable ethics. An example is a casino owner who turns a blind eye to drug dealers or loan sharks, or who continues to service a player with a gambling issue who is losing their nest egg.



So, what is ethical? The Cambridge Dictionary defines business ethics as “the rules, principles, and standards of deciding what is morally right or wrong when working.”<sup>2</sup> While the description of an ethical business is easy to comprehend, it is often tough to apply. What’s debatable is what’s right or wrong in various contexts and between different stakeholders. When faced with a decision, two ethical people can disagree on what’s right. Moreover, you cannot legislate to cover all unethical situations.

Management’s singular “obligation” to maximize “shareholder value” is central to the debate over corporate casino ethics. We see this struggle consistently. For example, Crown Resorts’ board defended undefendable conduct zealously when the media criticized them for working with unsuitable junket companies. Likely, they thought the media attacks threatened the company’s financial future. This is understandable. The dominant corporate governance framework is “shareholder primacy” or “shareholder value maximization.” Under shareholder primacy, corporate decisions try to raise share prices. The board’s fiduciary duty is to make decisions solely based on shareholders’ interests. Indeed, financial investors expect returns. But are they entitled to maximum returns regardless of the impact on others?

All corporations need to move away from shareholder primacy and consider all stakeholders, including employees, players, and communities. Companies that focus on short-term profits drive down all other costs at the expense of long-term productivity and better compensation. As a result, there is widespread economic inequality and stagnant wages. This has also led to splintering in the workplace. Corporations also externalize societal costs to customers and communities to increase earnings per share. For casinos, this mainly means ignoring responsible gaming or even promoting irresponsible gambling and forcing communities to deal with treatment and the effects on families.

Regardless of what you think about shareholder primacy, gaming is not like other industries. As a privileged industry, casino gaming falls under a small category of permitted vices. Casinos are an exception to the gambling ban. The government or voters trusted the benefits of casinos outweighed the negative consequences. Casinos must earn this trust because operators with special privileges have obligations to balance benefits and burdens. Their very existence depends on it. When the government creates a privileged industry, it can and probably should revoke the privilege if increased costs or decreased benefits tip the scales in a different direction.

This new paradigm requires the casino to look at all those affected by their decisions. Besides shareholders, gaming companies have responsibilities to employees, patrons, and the community. The primary responsibility to patrons is addressing responsible gambling or problem gambling. Exposure to gambling advertisements may increase the likelihood of gambling behavior, especially among vulnerable young people and people with problem gambling histories. Casinos should know their advertisements' potential impact and make sure they do not contribute to problem gambling. Another area is alcohol policy.

Alcohol availability in casinos can also affect problem gambling rates, since it can lower inhibitions and increase risk-taking. As a result, people might gamble excessively or impulsively. Research shows that people who mix alcohol and gambling are more likely to have financial problems or gambling addictions. Some casinos implement responsible gambling policies to minimize these risks, such as limiting alcohol service, offering free non-alcoholic beverages, or providing resources for problem gamblers.

Casino companies also should ensure their marketing and advertising practices are truthful and not misleading. It is unethical to deceive consumers with false or incomplete information to persuade them to gamble. It violates the trust between the casino and the players and undermines fair competition.

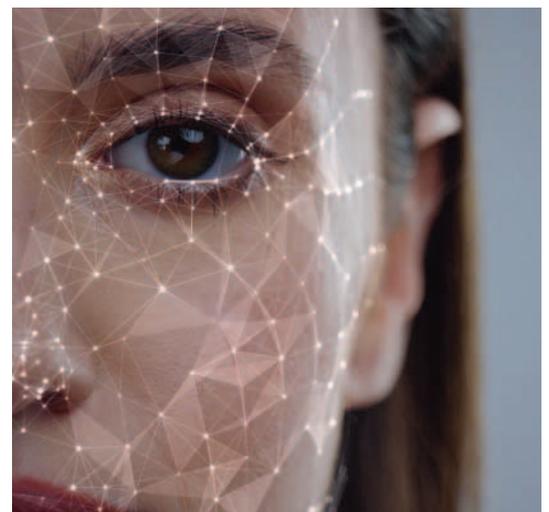
Casinos also handle sensitive information that can devastate customers if misused or mishandled. Casinos have collected personal data for years. In the past, casino hosts were most valued by the quality of their customer lists. Since the 1990s, casinos have also collected personal information, including name, date of birth, address, email

address, gender, and driver's license information, for loyalty programs. However, these efforts are opt-in, where patrons agree to share information for comps or loyalty benefits.

Casinos can use biometrics and other player data to analyze behavior and target the patron with individual incentives designed to increase or prolong play. Here, the opt-in customer relinquishes expectations of privacy because they agreed to be part of the marketing program. But what about patrons whose data the casino collects and uses in marketing promotions without their express consent?

Biometrics and artificial intelligence are moving into casinos, so ethical casinos must reassess patron privacy. There is a growing sense that people's privacy is being invaded. According to a Pew Research Study, 79% of Americans have concerns about how companies use their data. Three-quarters of Americans think data retention is less secure than five years ago. Those fears grow as businesses collect more information about their customers, including their locations, who they associate with, and their gambling habits.

Artificial intelligence and facial recognition also raise privacy issues. The technology requires a lot of data collection and storage, including facial images and biometric data, which might be stolen, misused, or abused. Face recognition technology can have unintended consequences, like misidentifying people, seriously affecting privacy and freedom. Facial recognition systems also may perpetuate existing biases and discrimination, especially against marginalized groups. Facial recognition systems often operate in a black box, making exclusion decisions in a very opaque manner, leading to concerns about accountability and fairness.



Ethical issues abound. Is this an accepted fact of living in the digital age, or could it bring a public backlash? For example, should a casino track a person using biometrics only long enough to determine if they are a good customer and want to opt into a player's club? Can the casino use third-party services that compare images of otherwise anonymous players captured at the casino to databases of photos often scrapped from social media to identify the patron by name? Finally, should casinos be able to use biometric and other data to push offers to target patrons at gaming devices that stimulate more gaming?

Finally, casinos need to help protect vulnerable classes. Minors cannot gamble, and exposing them to gambling advertising can normalize gambling behavior and increase the likelihood of underage gambling. Juveniles also are more vulnerable to the psychological effects of gambling. As a result, they may develop a gambling addiction, severely affecting their mental and financial well-being and their relationships with family and friends.

Next, casinos have responsibilities to the communities that let them thrive. One area of responsibility ties back to players. A problem gambler can have far-reaching consequences on their family and community. Problem gambling can strain relationships, cause financial hardship, and cause emotional distress for the gambler's family. Children of problem gamblers also have a higher risk of emotional and behavioral problems and financial troubles. Problem gambling can affect businesses because it decreases productivity. Dysfunctional gambling can also lead to crime, homelessness, and other social issues.

The general notion that casinos increase crime in the surrounding areas is debatable, but that does not mean

an individual casino can fail in this area. Instead, casinos should ensure that their presence does not increase neighborhood crime. This can include programs to prevent crime and promote safety, being a responsible corporate citizen, and contributing to community development and improvement.

Casinos that accept criminals as patrons might be unethical from different angles. As a business, gambling has long been associated with organized crime, contributing to its general prohibition. The casino industry's reputation could be damaged if criminals participate. Criminals also use casinos for loan sharking, drug sales, prostitution, and money laundering. The latter undermines financial system integrity and contributes to organized crime, drug trafficking, and terrorism financing. Employees and patrons are less safe because of this.

Using political contributions to influence legislation and government policy also is controversial. Some people consider it a legitimate way for casino companies to express their opinions and participate in the democratic process. Others think it is unethical since it can give wealthy companies disproportionate influence, resulting in policies that benefit them rather than the public. Nevertheless, contributions can influence elected officials, causing corruption and compromising the integrity of politics.

Representative democracy principles and whether people and organizations should have a say in politics are all questioned when political contributions are misused to influence legislation and government actions. Its ethicality may depend on how political influence is used and its impact on society and politics.



Employees are the last stakeholder group worth mentioning. Corporations are ethically obligated to provide employees with a safe and healthy work environment. A positive work culture, a productive workforce, and company success all depend on the well-being of employees. Therefore, casinos should pay employees enough so they can meet their basic needs. Failure to do this can cause financial insecurity, stress, and poor physical and mental health. It also can contribute to broader societal problems, like poverty, inequality, and economic instability.

A positive work environment and a living wage are essential for fostering employee satisfaction and loyalty. Employee loyalty is vital. Therefore, companies should support and value employees. Lack of loyalty can lead to high levels of stress and dissatisfaction among employees, which leads to higher turnover and lower productivity. It also can make a company seem untrustworthy, damaging its reputation and affecting its business. Employees who are loyal avoid conflicts of interest, boost the company's image, and lift their coworkers' morale.

Casino employees should feel free to express their opinions about ethical and other workplace issues. Ethical casino companies do not tolerate racial, ethnic, or national origin discrimination. As well, sexual harassment violates people's fundamental rights and dignity and can have severe consequences for the people who experience it and the organizations that tolerate it. Casino employees interact with a wide range of patrons, so keeping a safe, respectful work environment free of harassment and other forms of misconduct is crucial.

Employee privacy is also essential. Keeping work-related information confidential is one way to show loyalty.

Ethics in the casino industry is a tricky business. Legislating reasonable regulations can address the more obvious ethical issues. Some unethical circumstances can be defined and are appropriate for regulations—including things such as the honesty or fairness of the games. For example, criminal laws can cover the more egregious violations, such as prohibiting casinos from cheating the players. In addition, regulations such as technical standards can assure the randomness of the computer chips that determine win or loss. Jurisdictions emphasizing player protection have various regulatory options, from player exclusion to daily loss limits.

More problematic is the ethical situations that lie between legal and unethical. Does the government even have a role in this area? Some, like Nevada, rely on legally ambiguous regulations that enable regulators to discipline them “if the casino reflects discredit or disrepute on the state.” This is a problematic method for several reasons. First, it provides virtually no guidance to the casino industry regarding what is ethically acceptable. Second, the ultimate decision of what is ethically acceptable can be entirely subjective. For example, those who oppose affirmative action and similar programs might find a casino's diversity and inclusion initiatives unethical. Others would disagree and argue that they represent the best of an ethical company. Third, depending on the jurisdiction, a general ethical standard may fail constitutional tests as being too vague as a standard.

A more sustainable approach is through requirements for the government to require business standards and procedures. This approach recognizes that each casino corporation has different stakes and may respond differently to an ethical problem.





Standards set general guidelines for the casinos to follow. Here are some ideas similar to the American Bar Association's code of ethics for lawyers.

- 1. Candor, Honesty, and Integrity.** Casinos should act with candor, honesty, and integrity in all their dealings with customers, suppliers, employees, and regulators. They should not misrepresent or deceive in their advertising, promotions, or other business activities. Casinos should conduct public relations and the press with honesty and integrity.
- 2. Privacy and Confidentiality.** Casinos should protect their customers' financial and personal information. They should not disclose confidential information unless required by law or with the customer's informed consent.
- 3. Fairness.** Casinos should offer fair and impartial service to all customers. A casino should not mislead its customers regarding its gambling activities, such as odds, game play, payouts, or any other means.
- 4. Non-Discrimination.** Casinos should not discriminate based on of race, gender, religion, or any other protected class.
- 5. Competence.** Casinos should be competent in all business areas, including gaming regulations, responsible gaming, compliance, customer service, and accounting.
- 6. Compliance.** Casinos should comply with all applicable laws, regulations, and ethical standards.
- 7. Social Responsibility.** Casinos should be socially responsible and consider their impact on the community, including issues like underage gambling, problem gambling, addiction, and economic and social effects. Casinos should promote responsible alcohol and drug policies.
- 8. Conflict of Interest.** The casino and its employees should avoid conflicts of interest that could compromise their independence, objectivity, or integrity.

**9. Responsibility to Employees.** Casinos should treat their employees fairly and respectfully, provide safe working conditions, and offer professional development opportunities. Casinos should avoid placing employees in situations where their employment or compensation depends on engaging in illegal or unethical practices.

**10. Responsibility to Regulators.** Casinos should cooperate with regulators and provide accurate and timely information in response to regulatory inquiries or audits. Casinos should self-report significant instances of ethical issues by it or any other casino.

**11. Responsibility to the Industry and Profession.** Casinos should maintain the reputation of their industry and promote the highest ethical standards. Professional associations and other organizations that promote responsible gaming, mitigate social impacts and promote ethical business practices should be supported.

Procedures ensure that, regardless of the corporation's ultimate decision in a situation, management and the board of directors have adequately considered the ethical implications. Ethical failures for these companies are more likely the result of failure to identify and disclose unethical situations to leadership that would otherwise intercede and prevent objectionable behavior. Keeping ethical considerations in mind when making decisions is often more challenging in companies than knowing what is right or wrong. For example, the casino industry could have avoided most scandals reported too frequently in the media if it had identified, investigated, and deliberated about ethical issues. This involves processes not unlike those involved in compliance, including reporting systems and obligations, training, and a dedicated ethic officer. ■

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<sup>1</sup> Eadington, William R. "Problem gambling and public policy: Alternatives in dealing with problem gamblers and commercial gambling." 1989). *Compulsive gambling: Theory, research, and practice*. Lexington, MA: Lexington Books (1989): 175-186.

<sup>2</sup> What Are Business Ethics? Definition, Principles, and Types. <https://bau.edu/blog/what-are-business-ethics/>.



# **U.S. Court of Appeals for the District of Columbia Upholds Florida-Seminole Sports Betting Compact**

Sunshower Shots - stock.adobe.com

In 2021, the State of Florida and the Seminole Tribe entered into a compact that appeared to allow online sports wagers throughout the state. The related enabling legislation, signed by Governor DeSantis, further provided that sports wagers shall be deemed to take place where the servers are located – e.g., on Tribal land and, as such, “do not violate the laws of [Florida].”<sup>1</sup>

The compact became effective when the Secretary of the Interior failed to act within 45 days of its submission by either approving or denying the agreement.<sup>2</sup> In turn, the compact was published in the Federal Register.<sup>3</sup>

The plaintiffs, two non-tribal, brick and mortar gaming operators – the Magic City Casino and the Bonita Springs Poker Room – filed suit in the U.S. District Court for District of Columbia alleging violations of the Indian Gaming Regulatory Act (“IGRA”),<sup>4</sup> the federal Wire Act,<sup>5</sup> the Unlawful Gambling Enforcement Act<sup>6</sup> and the Fifth Amendment of the U.S. Constitution. The district court granted summary judgment in favor of the plaintiffs by finding that the compact attempts to authorize sports betting on and off Indian lands in violation of IGRA.<sup>7</sup>

On June 30, 2023, the U.S. Court of Appeals for the District of Columbia overturned the district court’s opinion. In reaching its decision, the court relied on the U.S. Supreme Court’s decision in *Michigan v. Bay Mills Indian Cmty.*<sup>8</sup>, which held that while IGRA “regulate[s] gaming on Indian lands, and nowhere else,”<sup>9</sup> it also expressly contemplates that state tribal compacts may address off-reservation activity that is directly related to gaming.<sup>10</sup>

Specifically, the Court of Appeals held that the “district court erred by reading into the Compact a legal effect it does not (and cannot) have, namely, independently authorizing betting by patrons located outside of the Tribe’s land.”<sup>11</sup> In other words, the Court of Appeals determined that the company did not authorize off-reservation sports betting. Further, the court held that the legality of placing bets from non-tribal lands in Florida is a possible state law question, but it is not one for the federal courts to decide. The compact, the court concluded, only authorizes betting on tribal land as permitted by IGRA.<sup>12</sup> ■

■ Authored by Jeff Rodefer

<sup>1</sup> Fl. Stat. § 285.710(13)(b)(7).

<sup>2</sup> See 25 U.S.C. § 2710(d)(8)(C).

<sup>3</sup> 86 Fed. Reg. 44, 037-01 (Aug. 11, 2021).

<sup>4</sup> 25 U.S.C. § 2701, *et seq.*

<sup>5</sup> 18 U.S.C. § 1801, *et seq.*

<sup>6</sup> 31 U.S.C. § 5361, *et seq.*

<sup>7</sup> See *W. Flagler Assocs. v. Haaland*, 573 F. Supp. 3d 260, 273 (D.D.C. 2021).

<sup>8</sup> 572 U.S. 782, 795 (2014).

<sup>9</sup> *W. Flagler Assocs. v. Haaland*, No. 21-5265 (D.C. Cir. Jun. 30, 2023)

<sup>10</sup> *Id.*; see also 25 U.S.C. § 2710(d)(3)(C)(viii).

<sup>11</sup> *W. Flagler Assocs. v. Haaland*, No. 21-5265.

<sup>12</sup> *Id.*



# 2023 LEGAL SPORTS BETTING LANDSCAPE

Five years ago, the U.S. Supreme Court published its landmark ruling in *Murphy v. NCAA*, 584 U.S. \_\_\_\_, 138 S. Ct. 1461 (2018) holding that the Professional and Amateur Sports Protection Act of 1992 was unconstitutional. This opened the floodgates for the rapid expansion of emerging sports betting jurisdictions across the country.

Thirty-four states and Washington D.C. have legalized sports wagering. Four states – Florida, Kentucky, Maine and Vermont – have enacted legislation, but sports wagering has yet to become operational. Other states are considering legislation or have pending ballot initiatives. Based on information gathered by the American Gaming Association, below is a brief chart of the legal jurisdictions as of April 19, 2023. Each of these states have set the age of majority at 21 to place wagers on sporting events, except for Montana, New Hampshire, Rhode Island, Washington and Wyoming that lowered the age to 18. New York allows those that are 18 or older to place sports wagers at tribal casinos, but they must be 21 or older for similar activity at commercial and online sports books.

For more information, please visit <https://www.americangaming.org/research/state-gaming-map/>.

## ARIZONA

**Legalization Date:** 2021

**Tax Rate:** 8% Retail & 10% Online

**Operators:** 10 Tribal Casinos, 10 Professional Venues/Teams & 10 Limited Event Wagering Licenses for Racetracks & OTBs

**Prohibitions:** College Prop Bets

## ARKANSAS

**Legalization Date:** 2018

(launch date 2019-retail/2022-online)

**Tax Rate:** 13% on First \$150m of Revenue & 20% Thereafter

**Operators:** Commercial Casinos, Racinos & Online Operators

**Prohibitions:** Possible Ban for In-State Professional Teams & Events

## COLORADO

**Legalization Date:** 2019 (launch date 2020)

**Tax Rate:** 10% on Sports Betting Revenue

**Operators:** Commercial Casinos, Racinos & Online Operators

**Prohibitions:** College Prop Bets

## CONNECTICUT

**Legalization Date:** 2021

**Tax Rate:** 13.75% on Sports Betting Revenue

**Operators:** Tribal Casinos, Online Operators & Lottery through Retailers & Online

**Prohibitions:** In-State Collegiate Teams

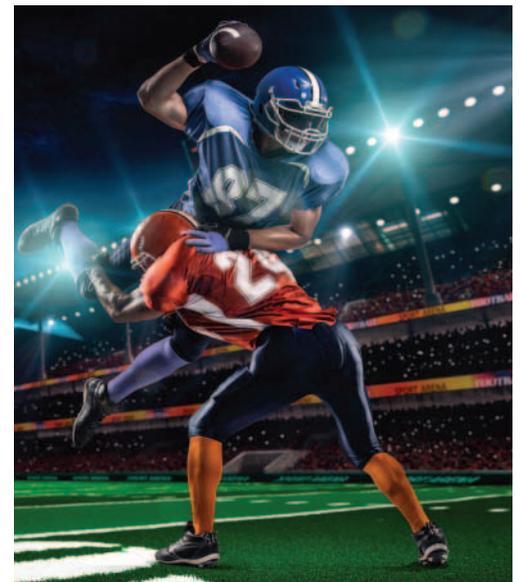
## DELAWARE

**Legalization Date:** 2018

**Tax Rate:** 50% on Sports Betting Revenue

**Operators:** Lottery through Racinos Pro Football Parlay through Retail Lottery Outlets

**Prohibitions:** In-State Collegiate Teams



## ILLINOIS

**Legalization Date:** 2019

(launch date 2020-retail/mobile)

**Tax Rate:** 15-17% on Land-Based Sports Betting Revenue & 15% of Online Sports Betting Revenue

**Operators:** Commercial Casino, Racetrack, Sports Arena & Online Operators

**Prohibitions:** Bets on In-State Collegiate Teams Must be Placed in Person, Not Online, and Only on Game Outcomes, Not Individual Performances

## INDIANA

**Legalization Date:** 2019

**Tax Rate:** 9.5% on Sports Betting Revenue

**Operators:** Commercial Casinos, Racinos, OTBs & Online Operators

**Prohibitions:** In-play, Collegiate Player Prop Betting

## IOWA

**Legalization Date:** 2019

**Tax Rate:** 6.75% on Sports Betting Revenue

**Operators:** Commercial Casinos, Tribal Casinos & Online Operators

**Prohibitions:** Prop Bets on In-State College Teams

## KANSAS

**Legalization Date:** 2022

**Tax Rate:** 10% of Sports Betting Revenue

**Operators:** Commercial Casinos, Tribal Casinos & Online Operators

**Prohibitions:** None

## LOUISIANA

**Legalization Date:** 2021

(launch date 2021-retail/2022-online)

**Tax Rate:** 10% on Sports Betting Revenue & 15% on Online/Mobile Sports Betting Revenue

**Operators:** Commercial Casinos, Racetracks, Online Operators, Lottery Kiosks at Bars & Restaurants, Video Poker Establishments, OTBs & Fantasy Sports

**Prohibitions:** None

## MARYLAND

**Legalization Date:** 2021

(launch date 2021-retail/2022-online)

**Tax Rate:** 15% of Sports Betting Revenue

**Operators:** A1 and A2 licenses: Commercial casinos, racetracks, sports arenas

B1 and B2 licenses: State Fairgrounds, OTB's, commercial bingo facilities permitted to operate at least 200 electronic bingo machines or electronic tip jar machines, 30 other local businesses selected by the Sports Wagering Application Review Commission

Mobile Sports Wagering license: Class A1 and A2 operators are eligible to receive a mobile license as well as other online operators. A maximum of 60 licenses are available.

**Prohibitions:** None

## MASSACHUSETTS

**Legalization Date:** 2022

(launch date 2023)

**Tax Rate:** Retail: 15% | Online: 20%

**Operators:** Commercial Casinos, Racetracks, OTBs, & Online Operators

**Prohibitions:** In-State Collegiate Teams, Unless Participating in a Tournament Comprised of Four or More Teams, & Prop Betting on Collegiate Athletes

## MICHIGAN

**Legalization Date:** 2019

(launch date 2020-retail/2021-online)

**Tax Rate:** 8.40% on Commercial Land-Based & Tribal Sports Books & 9.65% on Commercial Online Sports Books

**Operators:** Commercial Casinos, Tribal Casinos & Online Operators

**Prohibitions:** None

## MISSISSIPPI

**Legalization Date:** 2017

(launch date 2018)

**Tax Rate:** 11-12% on Sports Betting Revenue (8% in State Tax and 3-4% in Local Tax)

**Operators:** Commercial & Tribal Casinos

**Prohibitions:** None

## MONTANA

**Legalization Date:** 2019

(launch date 2020)

**Tax Rate:** 6% of Handle

**Operators:** Lottery at Bars & Restaurants, Mobile at Licensed Locations

**Prohibitions:** None (Lottery Director Empowered to Establish Restrictions)

## NEVADA

**Legalization Date:** 1949

**Tax Rate:** 6.75% Gross Revenue

**Operators:** Casinos & Online

**Prohibitions:** None



## NEW HAMPSHIRE

**Legalization Date:** 2019  
(launch date 2019-online/2020-retail)  
**Tax Rate:** Online: 51% of Sports Betting revenue. Retail: 50% of Sports Betting Revenue  
**Operators:** Lottery through Online & Retail Agents  
**Prohibitions:** In-State Collegiate Teams & Events

## NEW JERSEY

**Legalization Date:** 2018  
**Tax Rate:** 9.75% on Retail Sports Betting Revenue & 14.25% on Online/Mobile Sports Betting Revenue  
**Operators:** Commercial Casinos, Racetracks & Online Operators  
**Prohibitions:** In-State Collegiate Teams & Events

## NEW MEXICO

**Legalization Date:** 2018  
**Tax Rate:** N/A  
**Operators:** Tribal Casinos  
**Prohibitions:** None

## NORTH CAROLINA

**Legalization Date:** 2019  
(launch date 2021)  
**Tax Rate:** N/A  
**Operators:** Tribal Casinos  
**Prohibitions:** None

## NEW YORK

**Legalization Date:** 2013 (launch date 2018 land-based & 2022 online)  
**Tax Rate:** 10% on Commercial Land-Based Sports Books & 51% on Online Sports Books  
**Operators:** Upstate Commercial Casinos, Tribal Casinos & Online Operators  
**Prohibitions:** In-State Collegiate Teams & Events

## NORTH DAKOTA

**Legalization Date:** 2018  
(launch date 2020)  
**Tax Rate:** N/A  
**Operators:** Tribal Casinos  
**Prohibitions:** None

## OHIO

**Legalization Date:** 2021  
(launch date 2023)  
**Tax Rate:** 10%  
**Operators:** Type A: Online Operators. Maximum of 25 Type A licenses are to be issued, unless a party can demonstrate that the market needs additional operators and that casinos, racetracks, sports teams/events have preference.

Type B (retail): Casinos, racetracks, sports teams/events, and other venues conducting significant economic activity. A maximum of 40 licenses are to be issued.

Type C (kiosks/clerk-operated terminals): Lottery sports gaming provider that places terminals at bars, restaurants, and nightclubs possessing a liquor license.

**Prohibitions:** None

## OREGON

**Legalization Date:** 2019  
**Tax Rate:** Lottery Revenue Minus Expenses Go to State  
**Operators:** Lottery Kiosks, Retailers, Online & Tribal Casinos  
**Prohibitions:** All Collegiate Teams & Events

## PENNSYLVANIA

**Legalization Date:** 2017  
(launch date 2018-retail/2019-online)  
**Tax Rate:** 36% on Sports Betting Revenue (34% In-State Tax & 2% In-County Tax)  
**Operators:** Commercial Casinos, Racinos, OTBs & Online Operators  
**Prohibitions:** None

## RHODE ISLAND

**Legalization Date:** 2018  
(launch date 2018-retail/2019-online)  
**Tax Rate:** 51% on Sports Betting Revenue  
**Operators:** Lottery through Commercial Casinos & Online  
**Prohibitions:** In-State Collegiate Teams & Events





### **SOUTH DAKOTA**

**Legalization Date:** 2021  
**Tax Rate:** 9% on Sports Betting Revenue  
**Operators:** Commercial & Tribal Casinos  
**Prohibitions:** In-State College Teams & College Prop Bets

### **TENNESSEE**

**Legalization Date:** 2019 (launch date 2020)  
**Tax Rate:** 20% on Sports Betting Revenue  
**Operators:** Online Operators  
**Prohibitions:** In-Game Prop Betting on All Collegiate Events and Athletes

### **VIRGINIA**

**Legalization Date:** 2020 (launch date 2021)  
**Tax Rate:** 15% on Sports Betting Revenue  
**Operators:** Commercial Casinos & Online Operators (including Professional Sports Franchisees)  
**Prohibitions:** In-State Collegiate Teams and Prop betting on All Collegiate Events

### **WASHINGTON D.C.**

**Legalization Date:** 2018  
**Tax Rate:** Lottery: Approximately 50% (district share) Commercial: 10%  
**Operators:** Sports Arenas, Lottery Retail Outlets, & Other Retail Locations  
**Prohibitions:** In-District Collegiate Teams

### **WEST VIRGINIA**

**Legalization Date:** 2018  
**Tax Rate:** 10% on Sports Betting Revenue  
**Operators:** Online Operators that Operate in at Least 2 U.S. Jurisdictions  
**Prohibitions:** None

### **WISCONSIN**

**Legalization Date:** 2021  
**Tax Rate:** N/A  
**Operators:** Tribal Casinos  
**Prohibitions:** In State Collegiate Amateur Teams & Event

### **WYOMING**

**Legalization Date:** 2021  
**Tax Rate:** 10% on Sports Betting Revenue  
**Operators:** Online Operators that Operate in at Least 2 U.S. Jurisdictions  
**Prohibitions:** None



Information compiled by Jeff Rodefer

Gaming Law Section's

# PRO BONO Program



For more than a decade, the Gaming Law Section (“GLS”) has had a pro program designed to assist indigent individuals in exercising their appeal rights to be registered as “gaming employees” with the Nevada Gaming Control Board. The program, developed under the leadership of Scott Scherer, works with the various legal aid agencies in the state to assign cases to those lawyers who have volunteered to provide legal assistance. If you are interested in donating your time to accept a case, please email Judi DeMarco, Diversity & Programs Manager and Liaison to the GLS at [judid@nvbar.org](mailto:judid@nvbar.org). To assist those in accepting a case, the GLS has published a brochure that provides an overview of what to expect during the representation including helpful hints. The digital brochure is available at <https://www.nvbar.org/content/gaming-law-section>.

**Additionally, from February 1st through June 1st, the Board of Governors challenged each section of the State Bar of Nevada to get more involved in pro bono matters. To this end, the “Section Pro Bono Challenge” was created to award points on the following basis:**

- 3 points for taking a case from a legal aid center in Nevada;
- 2 points for participating in Ask-A-Lawyer; and
- 1 point for every \$500 donated in lieu of pro bono service.

**Below are the final results of the competition:**

- Total participating attorneys – 198
- Total donations – \$6,335 (100% donated directly to legal aid based on IOLTA formula)
- Total challenge points – 1,451
- All sections with points (total points):
  - Alternative Dispute Resolution (22)
  - Appellate Litigation (32)
  - Cannabis (11)
  - Family (382)
  - Gaming (5)
  - LGBT (196)
  - Litigation (22)
  - Probate and Trust (264)
  - Public Lawyers (160)
  - Real Property (19)
  - Solo & Small Practice (12)
  - Young Lawyers (89)
  - Non-participating sections, unknown (237)

Information compiled by Jeff Rodefer



# Nevada Resort Association's **2023 Nevada Gaming Fact Book**

The Nevada Resort Association released its *2023 Nevada Gaming Fact Book*, which can be found on its website (<https://www.nevadaresorts.org/about/factbook/index.php>).

Some of the key facts about the Nevada gaming industry are outlined below.



Contributes **\$90.7 billion** in economic impact to the state and **43%** of the state's total gross domestic product;



Provides **\$21.4 billion** in wages or **23%** of the state's total wages and salaries;



Provides **\$5.2 billion** in total wages and salaries, and **\$1.4 billion** in total employee benefits;



Employs **386,200** or **27%** of the state's total workforce;



Provides **\$2.1 billion** in tax revenue and fees to the state; and



Contributes nearly **\$23 billion** in capital investment (both under construction and planned).

Information compiled by Jeff Rodefer

American Gaming Association's Report



# Diversity in the Gaming Workforce

On April 6, 2023, the American Gaming Association ("AGA") issued its report entitled, "Diversity in the Gaming Workforce." The AGA provides the following summary on its website (<https://www.americangaming.org/resources/diversity-in-the-gaming-workforce/>)

61% of gaming industry employees are minorities, compared to 52% of the broader hospitality industry and 42% of the total U.S. workforce.



23% of gaming employees are Hispanic and 19% are Black—both higher than the national workforce and in line with the hospitality industry.

Asian employees are more represented in gaming at 14%, about twice the national workforce.

Today, 60% of gaming operator employees are minorities, up nearly 20% from 2011, and higher than the hospitality sector and national workforces overall.

Gaming operators have seen a significant increase in the share of workers who are Black: 19% today compared with 12% in 2011.



Importantly, across job levels, the leadership pipeline in gaming is significantly more diverse than national averages at the first/mid-level manager and professional levels: 45 percent of first/mid-level managers are minorities while 43 percent of professionals are minorities, both 10 to 12 points above national and hospitality benchmarks; and

Gender diversity presents an opportunity for the industry. The gaming industry workforce is 48 percent female, in line with the national workforce, but representation drops off at more senior level job classifications.

45% of gaming manufacturer employees are minorities, compared to 38% of the broader electronic manufacturing workforce.

Similarly, gaming manufacturers' share of female employees is more than five points higher than other electronic manufacturers across a range of job classifications, including executive and mid-level officials and managers.



Information compiled by Jeff Rodefer



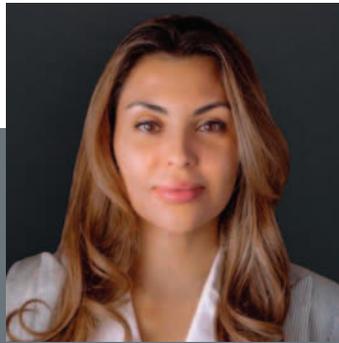
# William S. Boyd School of Law LL.M. in Gaming Law and Regulation: **2023 GLS Scholarship Awards**

By Sarah Gonzales

The Gaming Law Section of the Nevada State Bar and William S. Boyd School of Law are pleased to announce the selection of Lesego Mokhutswane and Karla Barillas as recipients of the Gaming Law Section scholarship for the 2023 – 2024 academic year.



**Lesego Mokhutswane** currently serves as a litigation specialist and acting senior manager of the legal and law enforcement department for the Gauteng Gambling Board in South Africa. He graduated with his LLB in Law from the University of Witwatersrand in South Africa. He also holds advanced certificates in taxation, labor disputes, and advanced alternative dispute resolution. As South Africa is considering the legalization of online (interactive) gambling, he is hoping the LL.M. program will help build a good foundation to continue to develop gaming in the country.



**Karla Barillas** is a practicing attorney from Costa Rica, who graduated with an LLB from *Universidad Autonoma de Centro America* and a graduate degree in business law from *Universidad Latino Americana de Ciencia Y Tecnologia* in Costa Rica. She was co-founder and legal advisor for a medical tourism company in Costa Rica. She is excited to contribute to the development of gaming in the U.S., Central and Latin America.

The LL.M. in Gaming Law and Regulation premiered in August 2015, and has enrolled recent graduates and practitioners from across the United States and around the globe. Graduates of the program have transitioned into positions with law firms and organizations including the Nevada Gaming Control Board, William Hill, Caesars Entertainment, Aristocrat, CG Compliance, New Jersey Division of Gaming Enforcement, and more.



Sarah Gonzales is Director of Graduate Programs at the William S. Boyd School of Law, at the University of Nevada, Las Vegas. She oversees non-JD programs, including the LL.M. in Gaming Law and Regulation and online executive training programs in gaming law.

# 2022 GAMING LAW CONFERENCE

HELD **NOVEMBER 18, 2022** AT  
RED ROCK CASINO RESORT & SPA – LAS VEGAS



**Keynote Speaker** - Kerry Bubolz, President & CEO, Vegas Golden Knights



**Gaming Compliance Roundtable (L-R)** - Luke Rippee, Deputy Chief, Investigations Division, Nevada Gaming Control Board; Tonya Henderson, Vice President of Compliance, Resorts World Las Vegas; Tracey Elkerton, Chief Compliance Officer, Aristocrat Leisure Limited; & Nadia Akopyan, Vice President, Regulatory Compliance & Internal Audit, Aruze Gaming America, Inc.



**Sports Betting (L-R)** - Scott Scherer, Partner, Brownstein Hyatt Farber Schreck; Jennifer Roberts, Vice President & General Counsel, WynnBET; & Ben Kieckhefer, then-Nevada Gaming Commissioner



**Regulators Roundtable (L-R)** - Jennifer Togliatti, Chair, Nevada Gaming Commission; Brittnie Watkins, Member, Nevada Gaming Control Board; Nathan Allen, Deputy Chief, Investigations Division, Nevada Gaming Control Board; Jim Barbee, Chief, Technology Division, Nevada Gaming Control Board; & Jaime Black, Chief, Administration Division, Nevada Gaming Control Board



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# 2023 GAMING LAW CONFERENCE

**FRIDAY, NOVEMBER 17, 2023**  
RED ROCK CASINO RESORT & SPA - LAS VEGAS  
8:00 a.m. - 5:00 p.m. SIGN-IN STARTS AROUND 7:30 a.m.

## AGENDA

- (8:00-9:00am) ***Nevada Gaming Economic Outlook & Investigations Division Update***  
George Assad, Member, Nevada Gaming Control Board, Mike Lawton, Senior Economic Analyst, Nevada Gaming Control Board, Carl Hoffman, Chief, Investigations Division, Nevada Gaming Control Board, Diane Presson, Investigative Services Manager, Nevada Gaming Control Board, & Luke Rippee, Deputy Chief, Investigations Division, Nevada Gaming Control Board (Moderator)
- (9:00-9:10am) ***Networking Break Sponsored by Greenberg Traurig, LLP***
- (9:10-10:10am) ***The GameSense™ Responsible Gaming Program: What You Need to Know***  
Garrett Farnes, MSW, Director of Responsible Gaming, MGM Resorts International & Richard L. Taylor, Jr., Senior Manager Responsible Gambling, BetMGM
- (10:10-10:20am) ***Networking Break Sponsored by Greenberg Traurig, LLP***
- (10:20-11:20am) ***2023 Legislative Update*** - Nevada State Senate Majority Leader, Nicole Cannizzaro (D-District 6), Nevada State Assembly Speaker, Steve Yeager (D-District 9) & Virginia Valentine, President & CEO, Nevada Resort Association (Moderator)
- (11:20-11:30am) ***Networking Break Sponsored by Greenberg Traurig, LLP***
- (11:30am-12:30pm) ***Regulator Roundtable*** - Nevada Gaming Control Board Chairman, Kirk Hendrick Nevada Gaming Commission Chair, Jennifer Togliatti & Brett Abarbanel, Ph.D., Executive Director, UNLV International Gaming Institute (Moderator)
- (12:30-1:50pm) ***Lunch***  
***Keynote Speaker*** - Congresswoman Dina Titus (D-NV, District 1)
- (1:50-2:50pm) ***Hot Topics on Sports Betting and iGaming*** - Joe Asher, President, PlaySports, A. Jeff Ifrah, Founding Member, Ifrah Law & Scott Scherer, Partner, Brownstein Hyatt Farber Schreck, LLP (Moderator)
- (2:50-3:00pm) ***Networking Break Sponsored by Greenberg Traurig, LLP***
- (3:00-5:00pm) ***Ethics in Gaming*** - Law Professor Jeff Stempel, UNLV William S. Boyd School of Law & Jennifer Roberts, Vice President & General Counsel, WynnBET (Moderator)



**GAMING LAW SECTION**

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